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 of 1986.

S. 837

At the request of Mr. BROWNBACK, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 837, a bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

S. 845

At the request of Mr. GRAHAM of Florida, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 845, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 853

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 853, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program.

S. 874

At the request of Mr. TALENT, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 876

At the request of Mr. WYDEN, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 876, a bill to require public disclosure of noncompetitive contracting for the reconstruction of the infrastructure of Iraq, and for other purposes.

S. 883

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 883, a bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program.

S. 918

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 918, a bill to require the Secretary of Defense to implement fully by September 30, 2004, requirements for additional Weapons of Mass Destruction Civil Support Teams.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Texas (Mrs. HUTCHISON) 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. SANTORUM, his name was added as a cosponsor 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself, Mr. CAMPBELL, Mr. DOMENICI, Mr. HATCH, Mr. INOUYE, and Ms. MURKOWSKI):

S. 931. A bill to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land; to the Committee on Energy and Natural Resources.

Mr. STEVENS. Mr. President, today I introduce, with Senators CAMPBELL, DOMENICI, HATCH, INOUYE, and MURKOWSKI, the Federal Land Recreational Visitor Protection Act of 2003.

Across our State of Alaska, Western States, and areas of the Northeast, local governments and businesses struggle each year to remove potential avalanches or recover form the disastrous effects of avalanches. The West Wide Avalanche Network calculated avalanche damage totals for the Western U.S. between $600 thousand and $800 thousand annually. These costs do not include the economic losses from town cut-off by avalanches. In our state alone, the Safety Center estimates upwards of $18 million in direct damages both to private property and economic losses over the past 5 years.

While such damage can bring hardships to many local communities, none can compare with the loss of a friend or family member. The U.S. averages 30 deaths a year from avalanches, a majority of which are results of recreational activities in unmitigated avalanche areas. Some States set aside money for rescues prior to the winter season, knowing that the resources required to clear all avalanche threats are not at hand.

This bill brings those resources to the entities that need them the most, enabling us to significantly reduce the effects of avalanches on visitors, recreational users, transportation corridors, and our local communities.

By Mr. BREAUX (for himself, Mr. ENSIGN, Mr. CRAPO, and Mr. BUNNING):

S. 932. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles; to the Committee on Finance.

Mr. BREAUX. Mr. President, today I rise to introduce the Fuel Tax Equalization Credit for Substantial Power Takeoff Vehicles Act. This bill upholds a long-held principle in the application of the Federal fuels excise tax, and restores this principle for certain single engine ''dual-use'' vehicles.

This long-held principle is simple: fuel consumed for the purpose of moving vehicles over the road is taxed, while fuel consumed for ''off-road'' purposes is not taxed. The tax is designed to compensate for the wear and tear impacts on roads. Fuel used for a non-propulsion ''off-road'' purpose has no impact on the roads. It should not be taxed as if it does. This bill is based on this principle, and it remedies a problem created by IRS regulations that control the application of the federal fuels excise tax to ''dual-use'' vehicles.

Duel-use vehicles are vehicles that use fuel both to propel the vehicle on the road, and also to operate separate, on-board equipment. The two prominent examples of duel-use vehicles are concrete mixers, which use fuel to rotate the mixing drum, and sanitation trucks, which use fuel to operate the compactor. Both of these trucks move over the road, but at the same time, a substantial portion of their fuel use is attributable to the non-propulsion function.

The current problem developed because progress in technology has outstripped the regulatory process. In the past, duel-use vehicles commonly had two engines, IRS regulations, written in the 1950's, specifically exempt the portion of fuel used by the separate engine that operates special equipment such as a mixing drum or a trash compactor. These IRS regulations reflect the principle that fuel consumed for non-propulsion purposes is not taxed.

Today, however, typical duel-use vehicles use only one engine. The single engine both propels the vehicle over the road and powers the non-propulsion function through ''power takeoff.'' a major reason for the growth of these single-engine, power takeoff vehicles is that they use less fuel. And a major benefit for everyone is that they are better for the environment.

Power takeoff was not in widespread use when the IRS regulations were drafted, and the regulations deny an exemption for fuel used in single-engine, duel-use vehicles. The IRS defends its distinction between one-engine and two-engine, vehicles based on possible administrative problems if vehicle owners were permitted to allocate fuel between the propulsion and non-propulsion functions.

Our bill is designed to address the administrative concerns expressed by the

IRS, but at the same time, restore tax fairness for fuel-use vehicles with one engine. The bill does this by establishing an annual tax credit available for taxpayers that own a licensed and insured concrete mixer or sanitation truck with a compactor. The amount of the credit is $250 and is a conservative estimate of the excise taxes actually paid, based on information compiled on typical sanitation trucks and concrete mixers.

In sum, as a fixed income tax credit, no audit or administrative issue will arise about the amount of fuel used for the off-road purpose. At the same time, the credit provides a rough justice method to make sure these taxpayers are not required to pay tax on fuels that they shouldn't be paying. Also, as an income tax credit, the proposal would have no effect on the highway trust fund.

I would like to stress that I believe the IRS' interpretation of the law is not consistent with long-held principles under the tax law, despite their administrative concerns. Quite simply, the law should not condone a situation where taxpayers are required to pay the excise tax on fuel attributable to non-propulsion functions. This bill corrects an unfair tax that should have never been imposed in the first place, I urge my colleagues to cosponsor this important piece of 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:

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 ''Fuel Tax Equalization Credit for Substantial Power Takeoff Vehicles Act''.

SEC. 2. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year with or within which the taxable year ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which—

''(A) is propelled by any fuel subject to tax under section 4041 or 4081, and

''(B) is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the commercial power takeoff vehicles credit under section 45G(a).''.

(c) NO CARRYBACK BEFORE JANUARY 1, 2003.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to a taxable year beginning before January 1, 2003.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45G. Commercial power takeoff vehicles credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2002.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 936. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for certain fines, penalties, and other amounts; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today, we are introducing the ''Government Settlement Transparency Act of 2003.'' Over the past several months, we have become increasingly concerned about the approval of various settlements that allow penalty payments made to the government in settlement of a violation or potential violation of the law to be tax deductible. This payment structure shifts the tax burden from the wrongdoer onto the backs of the American people. This is unacceptable.

The issue of tax deductibility is particularly relevant in the settlement of various SEC investigations into violations or potential violations of the securities laws. The corporate meltdown of the past two years has caused investors to lose confidence in the stock market. To address investors' loss of faith, Congress passed the Sarbanes-Oxley Act last July. However, Sarbanes-Oxley begins to address only part of the corporate reform problem, as it applies solely to future corporate activity. To more fully restore confidence in the markets, America's State and Federal regulators are also working to hold accountable the corporate executives and others in corporate America responsible for damaging investor confidence. With these efforts to achieve greater accountability in the business community and ensure the integrity of our financial markets, it is important that the rules governing the appropriate tax treatment of settlements be clear and adhered to by taxpayers.

Section 162(f) of the Internal Revenue Code provides that no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or penalty to a government for violation of any law. The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines and penalties as ordinary and necessary business expenses on the grounds that ''allowance of the deduction would frustrate sharply defined national or state policies proscribing the particular types of conduct evidenced by some governmental declaration thereof.'' Treasury regulations provide that fine or penalty includes an amount paid in settlement of the taxpayer's actual or potential liability for a fine or penalty.

The legislation introduced today modifies the rules regarding the determination of whether payments are nondeductible payments of fines of penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred, whether by suit, agreement, or otherwise to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law are nondeductible. The bill applies to deny a deduction for any payment, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation.

An exception applies to payments that the taxpayer establishes are restitution. It is intended that a payment will be treated as restitution only if the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class broader than the specific persons or property that were actually harmed, for example, to class including similarly situated persons or property, does

not qualify as restitution. Restitution is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government, then restitution includes payment to such harmed government, provided the payment bears a substantial quantitative relationship to the harm. However, restitution does not include reimbursement of government investigative or litigation costs, or do payments to whistleblowers.

The bill would be effective for amounts paid or incurred on or after April 28th, 2003, except that it would not apply to amounts paid or incurred under any binding order or agreement entered into before such date.

We 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. 936

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 ''Government Settlement Transparency Act of 2003''.

SEC. 2. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government for the costs of any investigation or litigation.

''(3) TREATMENT OF CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—For purposes of paragraph (1), amounts paid or incurred to, or at the direction of, the following nongovernmental entities shall be treated as amounts paid or incurred to, or at the direction of, a government:

''(A) Any nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)).

''(B) To the extent provided in regulations, any nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

By Mr. HAGEL (for himself, Mr. HARKIN, Mr. WARNER, Mr. CHAFFEE, Ms. COLLINS, Ms. SNOWE, Mr. COLEMAN, Mr. KENNEDY, Mr. JEFFORDS, Mr. DODD, Ms. MIKULSKI, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, and Mr. REED.):

S. 939. A bill to amend part B of the individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes; to the Commitee on Health, Education, Labor, and Pensions.

Mr. HAGEL. 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. 939

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 ''IDEA Full-Funding Act of 2003''.

SEC. 2. AMENDMENTS TO IDEA.

(a) FUNDING.—Section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)) is amended to read as follows:

''(j) FUNDING.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—

''(1) $10,874,000,000 for fiscal year 2004, and, there are hereby appropriated $2,000,000,000 for fiscal year 2004, which shall become available for obligation on July 1, 2004 and shall remain available through September 30, 2005;

''(2) $12,874,000,000 for fiscal year 2005, and, there are hereby appropriated $4,000,000,000 for fiscal year 2005, which shall become available for obligation on July 1, 2005 and shall remain available through September 30, 2006;

''(3) $14,874,000,000 for fiscal year 2006, and, there are hereby appropriated $6,000,000,000 for fiscal year 2006, which shall become available for obligation on July 1, 2006 and shall remain available through September 30, 2007;

''(4) $16,874,000,000 for fiscal year 2007, and, there are hereby appropriated $8,000,000,000 for fiscal year 2007, which shall become available for obligation on July 1, 2007 and shall remain available through September 30, 2008;

''(5) $18,874,000,000 for fiscal year 2008, and, there are hereby appropriated $10,000,000,000 for fiscal year 2008, which shall become available for obligation on July 1, 2008 and shall remain available through September 30, 2009;

''(6) $20,874,000,000 for fiscal year 2009, and, there are hereby appropriated $12,000,000,000 for fiscal year 2009, which shall become available for obligation on July 1, 2009 and shall remain available through September 30, 2010;

''(7) $22,874,000,000 for fiscal year 2010, and, there are hereby appropriated $14,000,000,000 for fiscal year 2010, which shall become available for obligation on July 1, 2010 and shall remain available through September 30, 2011;

''(8) $24,635,000,000 or the sum of the maximum amounts that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2011, and, there are hereby appropriated $15,761,000,000 for fiscal year 2011, which shall become available for obligation on July 1, 2011 and shall remain available through September 30, 2012, except that if the sum of the maximum amounts that all States may receive under subsection (a)(2) is less than $24,635,000,000, then the amount appropriated in this paragraph shall be reduced by the difference between $24,635,000,000 and the sum of the maximum amounts that all States may receive under subsection (a)(2);

''(9) $25,329,000,000 or the sum of the maximum amounts that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2012, and, there are hereby appropriated $16,455,000,000 for fiscal year 2012, which shall become available for obligation on July 1, 2012 and shall remain available through September 30, 2013, except that if the sum of the maximum amounts that all States may receive under subsection (a)(2) is less than $25,329,000,000, then the amount appropriated in this paragraph shall be reduced by the difference between $25,329,000,000 and the sum of the maximum amounts that all States may receive under subsection (a)(2);

''(10) $26,005,000,000 or the sum of the maximum amounts that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2013, and, there are hereby appropriated $17,131,000,000 for fiscal year 2013, which shall become available for obligation on July 1, 2013 and shall remain available through September 30, 2014, except that if the sum of the maximum amounts that all States may receive under subsection (a)(2) is less than $26,005,000,000, then the amount appropriated in this paragraph shall be reduced by the difference between $26,005,000,000 and the sum of the maximum amounts that all States may receive under subsection (a)(2); and

''(11) such sums as may be necessary for fiscal year 2014 and each succeeding fiscal year.''.

(b) EXCEPTION TO THE LOCAL MAINTENANCE OF EFFORT REQUIREMENTS.—Section 613(a)(2)(B) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)(B)) is amended to read as follows:

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures, for 1 fiscal year at a time, if—

''(i) the State educational agency determines, and the Secretary agrees, that the local educational agency is in compliance with the requirements of this part during that fiscal year (or, if appropriate, the preceding fiscal year); and

''(ii) such reduction is—

''(I) attributable to the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

''(II) attributable to a decrease in the enrollment of children with disabilities;

''(III) attributable to the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

''(aa) has left the jurisdiction of the agency;

''(bb) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

''(cc) no longer needs such program of special education;

''(IV) attributable to the termination of costly expenditures for long-term purchases,

such as the acquisition of equipment or the construction of school facilities; or

''(V) equivalent to the amount of Federal funding the local educational agency receives under this part for a fiscal year that exceeds the amount the agency received under this part for the preceding fiscal year, but only if these reduced funds are used for any activity that may be funded under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).''.

(c) REPEAL.—Section 613(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)) is further amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) in subparagraph (A)(iii), by striking ''paragraphs (B) and (C)'' and inserting ''paragraph (B)''.

Mr. HARKIN. Mr. President, today, Senator HAGEL and I, and others introduce ''The IDEA Full Funding Act of 2003.'' This bill will provide increased mandatory funding for the Individuals with Disabilities Education Act, IDEA, and meet the Federal Government's commitment to pay 40 percent of the average per pupil expenditures. These additional funds will ensure that every child with a disability gets a free, appropriate public education.

In 1975, when the IDEA was passed in the House and Senate, there was an agreement made by negotiators based on the understanding that the Federal Government's goal would be to provide 40 percent of the average per pupil expenditures in each local education area. There was no time frame placed on this goal, but since that time it has been understood that ''full funding'' for IDEA means reaching that 40 percent goal.

For the past 28 years, we have put additional resources into IDEA but we have not come close to full funding. This bill will put our money where our mouth is and say that the federal government will be full partners with states and local governments in meeting the needs of children with disabilities.

This bill fully funds the IDEA. It appropriates funds for the next 10 years, gradually increasing the percentage of funds which are mandatory and increasing the amounts so that in year 8 we are at the level projected to equal 40 percent of the average per pupil expenditure. While we have seen welcome increases in IDEA spending over the past few years, past year increases do not guarantee future increases. This bill guarantees full funding, phased in over 8 years.

This bill does not create a new entitlement program. It provides advanced appropriations for the next 10 years, but it has a set amount for each year, not an open-ended figure.

This bill also provides incentive for compliance with the requirements of IDEA. If all of the IDEA-eligible children are getting the services that they are entitled to, then local property taxpayers get relief.

Last year, the Senate passed an amendment to the reauthorization of the Elementary and Secondary Education Act which would have required full funding of IDEA. The full funding provision was not in the final conference report. Prior to that amendment, there have been 22 separate bills and resolutions in the House and Senate calling for full funding.

This year, the time has come for full funding to make it into law. It has been 28 years since the Federal Government agreed to pay a share of IDEA and it is time to meet that goal.

The IDEA has been remarkably successful. In 1975, only ⅕ of children with disabilities received a formal education and several States had laws specifically excluding many children with disabilities, including those who were blind, deaf, or had mental health needs from receiving such an education. The most recent data on the number of children served under IDEA indicates that over 6 million children are currently benefiting from the law.

Although IDEA has been successful, there is more work to be done. Every time I speak to school districts in Iowa, they tell me that the costs of special education are very difficult for them to manage. Some parents of children with disabilities also complain that their children are not getting the education promised by IDEA.

This bill will provide significant additional resources. In 2003, we are funding $17.6 percent of the cost at 8.8 billion dollars. Under our bill, this number rises steeply to 22 percent of the cost and 10.8 billion dollars in 2004. The increases continue until 2011, when we reach 40 percent and an expenditure of 24.6 billion. Iowa sees its funding rise from 96 million in 2003 to 278.3 million in 2011. We are more than doubling the resources going to special education in Iowa and elsewhere.

I want to thank Senator HAGEL for his ongoing leadership on this issue and for his work in achieving bipartisan support for this bill. I also want to thank Senators KENNEDY, JEFFORDS and DODD for their longstanding commitment to fully funding IDEA. In addition, I want to acknowledge all of the co-sponsors of this bill, who are joining me today in leading the way for Congress to finally pass full funding into law.

This is a win-win-win bill. With this advance appropriations, students with disabilities will get the public education they have a right to, school districts will be able to provide services without cutting into their general education budgets, and in cases where all IDEA-eligible children are getting the services they are entitled to, property taxpayers get relief.

Ms. MIKULSKI. Mr. President, I rise in support of the IDEA Full Funding Act of 2003. I'm so proud to cosponsor this important legislation. This bill provides mandatory increases for IDEA funding each year, so that the Federal Government will be paying its full share of the cost of special education by 2011. This legislation is long overdue. I think it's shocking that the President is fighting for tax breaks for zillionaires while delaying help for those who need it most—the children with special needs and their parents and teachers. We must fully fund IDEA to ensure that children with disabilities are receiving the services they need to succeed with their classmates in public schools.

In 1975, Congress promised to pay 40 percent of the cost of special education when it passed the Individuals with Disabilities Education Act. Yet it has never paid more than 17.5 percent. That means local districts must make up the difference, either by cutting from other education programs or by raising taxes. I don't want to force States and local school districts to forage for funds, cut back on teacher training, or delay school repairs because the Federal Government has failed to live up to its commitment to special education. That's why fully funding IDEA is one of my top priorities.

Everywhere I go in Maryland, I hear about IDEA. I hear about it in urban, rural, and suburban communities, from Democrats and Republicans, and from parents and teachers. They tell me that the Federal Government is not living up to its promise, that special education costs about 18 percent of the average school budget, that schools are suffering, and the parents are worried.

Parents today are under a lot of stress—sometimes working two jobs just to make ends meet, trying to find day care for their kids, and elder care for their own parents. The Federal Government shouldn't add to their worries by not living up to its obligations. With the Federal Government not paying its share of special ed these parents have real questions in their minds: Will my child will have a good teacher? Will the classes have up-to-date textbooks? Will they be learning what they need to know?

Parents of disabled children face such a tough burden already. School should not be one of the many things they have to worry about, particularly when the laws are already on the books to guarantee their child a public school education. The bottom line is that the Federal Government is shortchanging these parents by not paying its share of special ed costs.

This bill will give local governments the resources they need to improve education for all children. It will free up money in local budgets for hiring more teachers, buying new textbooks and technology, and repairing old school buildings. It will help the teachers who struggle with teaching the toughest students. It will help students with disabilities and their families by providing enough funding for special education programs so parents can have one less thing to worry about, and students get the opportunities they deserve.

Full funding of IDEA is essential. It will give disabled children a chance to succeed in school and in life without

shortchanging other vital education programs. It will give parents peace of mind about their children's education. Let's pass this bill as soon as possible.

By Mr. GRAHAM of South Carolina:

S. 940. A bill to amend the Immigration and Nationality Act relating to naturalization through service in the Armed Forces of the United States; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. 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. 940

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 ''Armed Forces Citizenship Act of 2003''.

SEC. 2. NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) MINIMUM PERIOD OF SERVICE ELIMINATED.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''for a period or periods aggregating three years,''.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Section 328(b) of the Immigration and Nationality Act (8 U.S.C. 1439(b)) is amended—

(1) in paragraph (3)—

(A) by striking ''honorable. The'' and inserting ''honorable (the''; and

(B) by striking ''discharge.'' and inserting ''discharge); and''; and

(2) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing an application under subsection (a) or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(c) CONDUCT OF NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) REVOCATION OF CITIZENSHIP FOR SEPARATION FROM MILITARY SERVICE UNDER OTHER THAN HONORABLE CONDITIONS.—Section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) is amended by adding at the end the following:

''(f) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.''.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

By Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska):

S. 942. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Finance.

Mr. BROWNBACK. Mr. President, rural America has been depopulating at an alarming rate. The same is true for the rural counties in Kansas. In fact, over half of the counties in the State are losing population.

We are going to stop that trend.

Senators, like BEN NELSON and I, who grew up in small towns know a little secret. Rural America is a great place to live. However, for rural towns to compete with urban areas for talented young people, they have to be able to provide the basics—like high quality health care.

For the hospitals represented here today to be able to provide high quality health care for rural America, they have to be able to count on Medicare for fair reimbursement. For quite a few hospitals in Kansas, 70 and 80 percent of their caseload is paid for by Medicare. For the communities these hospitals serve, fair Medicare reimbursement is vitally important.

Unfortunately, much of the regulation that comes out of CMS is based on economics of scale. The actuaries and accountants in Baltimore produce payment systems and formulas for reimbursement. The assumption is that the hospitals that are the most efficient will be the most successful. Unfortunately, efficiency is often a product of volume. If you treat 5,000 stroke patients in a year, you are probably going to be more efficient than if you treat only 5.

Efficiency is a laudable goal, but it shouldn't be the only goal of Medicare. Particularly, when it comes to providing health care in a hospital with fewer than 50 beds.

That is why Senator NELSON and I are introducing the ''Rural Community Hospital Assistance Act of 2003.'' Rather than rely on formulas calculated by CMS bureaucrats in Baltimore, the hospitals covered under our bill will rely on cost-based reimbursement. In addition, the bill recognizes that these hospitals don't have the volume to cover bad debt from patients and to keep up with growing demands for new technology and infrastructure.

This bill will create a new Rural Community Hospital designation within Medicare for rural hospitals with fewer than 50 beds.

These hospitals will be eligible for cost-based reimbursement for impatient and outpatient services; a technology and infrastructure add on; cost based reimbursement for home health services where the provider is isolated; cost based reimbursement for ambulance services; and the restoration of Medicare bad debt payments at 100 percent.

And the cost of the bill, which we believe with stabilize health care in rural America, is less than ½ of 1 percent of annual Medicare expenditures.

This is an important bill for rural hospitals; and I don't think you can overestimate the importance of rural hospitals to the communities they serve.

Mr. NELSON of Nebraska. Mr. President, today I join Senator BROWNBACK in introducing the Rural Community Hospital Assistance Act. This legislation is intended to ensure the future of small rural hospitals by restructuring the way they are reimbursed for Medicare services by basing the reimbursements on actual costs instead of the current pre-set cost structure.

Current law allows for very small hospitals—designated Critical Access Hospitals, CAH, to receive cost-based Medicare reimbursements. To qualify as a CAH the facility must have no more than 15 acute care beds.

In rural communities, hospital facilities that are slightly larger than the 15 bed limit share with Critical Access Hospitals the same economic conditions, the same treatment challenges, the same disparity in coverage area but do not share the same reimbursement arrangement. These rural hospitals have to compete with larger urban-based hospitals that can perform the same services at drastically reduced costs. They are also discouraged from investing in technology and other methods to improve the quality of care in their communities because those investments are not supported by Medicare reimbursement procedures.

The legislation would provide cost-based Medicare reimbursement by creating a new ''rural'' designation under the Medicare reimbursement system. This new designation would benefit seven Nebraska hospitals. Hospitals in McCook, Alliance, Broken Bow, Beatrice, Columbus, Holdrege and Lexington would fall under this new designation, and would have similar benefits provided to nearly sixty other Nebraska hospitals classified under the CAH system.

The legislation would also improve the hospitals with critical access status. Nearly sixty existing CAH facilities in Nebraska already receive cost-based reimbursements for inpatient and outpatient services. The legislation would further assist these existing CAH facilities by allowing them a return on equity for technology and infrastructure investments and by extending the cost-based reimbursement to certain post-acute services.

Rural hospitals cannot continue to provide these services without having Medicare cover the costs. If something

is not done, the larger hospitals may be forced to cut back on the number of beds they keep—and the number of people they care for, and others may be forced to close their doors. These hospitals provide jobs, good wages, health care and economic development opportunity for these communities. Without access to these hospitals, these communities would not survive. The Rural Community Hospital Assistance Act will ensure that the community has access to high quality health care that is affordable to the patient and the provider.

By Mr. JEFFORDS (for himself, Mr. DURBIN, Mr. REID, and Mr. KERRY):

S. 944. A bill to enhance national security, environmental quality, and economic stability by increasing the production of clean, domestically produced renewable energy as a fuel source for the national electric system; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I rise today to introduce, along with Senators DURBIN, REID, and KERRY, the ''Renewable Energy Investment Act of 2003.''

This legislation will guarantee that by the year 2020, twenty percent of our electricity will be produced from renewable energy resources. These resources include wind, biomass, solar, ocean, geothermal and landfill gas.

Again and again, I have heard members come to this floor and say how important renewable energy is to our environment, to our national security, and to our domestic economic stability. I agree. But if we want to achieve these great benefits, we must, as they say, ''put our money where our mouth is.'' It is time to pass realistic, achievable standards to guarantee that renewable energy is produced.

The Renewable Energy Investment Act of 2003 is a very important step in that direction. It will create a renewable portfolio standard or ''RPS'' under which utilities and others who supply electricity to retail consumers will be required to ensure that by the year 2020, twenty percent of our domestic electricity is generated from renewable energy sources. The RPS in this legislation provides a flexible, market-driven system of tradeable credits by which utilities can readily achieve these renewable energy requirements.

Why twenty percent by 2020? Because the U.S. Department of Energy, through its Energy Information Administration, has repeatedly indicated that requiring that twenty percent of our electricity come from renewable energy by the year 2020 will actually lower overall consumer energy costs, while at the same time achieving tremendous environmental benefits.

According to the most recent estimates derived from the Department of Energy, consumer electricity prices under a twenty percent renewable portfolio standard would be largely the same as without one. According to the Department of Energy, retail electricity costs by the year 2020 without an RPS would be 6.5 cents per kilowatt hour. If a 20 percent RPS is in effect, retail electricity costs would be approximately 6.7 cents per kilowatt hour.

However, the Department of Energy studies also indicate that because an RPS creates a more diverse and competitive market for energy supply, overall domestic consumer energy costs will actually decrease by almost nine percent.

Equally important, shifting to greater renewable energy production will have dramatic impacts on human health and the environment. The Department of Energy has found that, as demand for energy grows, without changes to Federal law U.S. carbon emissions will increase forty seven percent above the 1990 level by 2020. However, with a twenty percent renewables standard, U.S. carbon dioxide emissions will decrease by more than eighteen percent by 2020.

Electricity production, primarily from burning coal, is the source of an estimated sixty six percent of sulfur oxide, SO_x, emissions. These chemicals are the main cause of acid rain, which kills rivers and lakes, and damages crops and buildings. Burning fossil fuels to produce electricity also emits nitrogen oxides, NO_x, which cause health-damaging smog. Ground-level ozone caused by nitrogen oxide contributes to asthma, bronchitis and other respiratory problems.

Electricity produced from nuclear power, while not responsible for the emissions associated with burning of fossil fuels, results in highly toxic, and essentially permanent wastes for which no complete disposal option currently exists.

Switching to renewable resources virtually eliminates these concerns. The Renewable Energy Investment Act of 2003 will help reduce emissions of carbon dioxide, sulfur dioxide, nitrogen dioxide, mercury and particulate matter, without creation of toxic wastes.

The twenty percent RPS established in this legislation will also create thousands of new, high quality jobs and bring significant new investment to rural communities. It will create an estimated $80 million in new capitol investment, and result in more than $5 billion in new property tax revenues.

It will bring increased diversity to our energy sector, creating greater market stability and reducing the price spikes that so often plague our domestic natural gas markets.

Greater diversity also reduces the vulnerability of our energy infrastructure to terrorist threats.

In a letter to Congress shortly after the attacks of September 11, 2001, several national security experts endorsed congressional passage of an RPS. The letter, signed by former CIA director James Woolsey; former National Security Advisor to President Reagan, Robert McFarlane; and former Chairman of the Joint Chiefs of Staff, Thomas Moorer, stated that a strong RPS is an important component of addressing the significant challenges to America's new energy security.

Rapidly increasing the production of renewable energy is vital to America's future. We must be willing to take the steps necessary to make that happen. The Renewable Energy Investment Act of 2003 is an essential part of that goal and I urge my colleagues to join with me in supporting this important 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. 944

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 ''Renewable Energy Investment Act of 2003.''

SEC. 2. DEFINITIONS.

In this Act:

(1) BIOMASS.—

(A) IN GENERAL.—The term ''biomass'' means—

(i) organic material from a plant that is planted for the purpose of being used to produce energy;

(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

(I) a forest-related resource, including—

(aa) mill and harvesting residue;

(bb) precommercial thinnings;

(cc) slash; and

(dd) brush;

(II) an agricultural resource, including—

(aa) orchard tree crops;

(bb) vineyards;

(cc) grains;

(dd) legumes;

(ee) sugar; and

(ff) other crop byproducts or residues; or

(III) miscellaneous waste such as—

(aa) waste pallet;

(bb) crate; and

(cc) landscape or right-of-way tree trimmings; and

(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

(B) EXCLUSIONS.—The term ''biomass'' does not include—

(i) incineration of municipal solid waste;

(ii) recyclable postconsumer waste paper;

(iii) painted, treated, or pressurized wood;

(iv) wood contaminated with plastic or metal; or

(v) tires.

(2) DISTRIBUTED GENERATION.—The term ''distributed generation'' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

(3) INCREMENTAL HYDROPOWER.—The term ''incremental hydropower'' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

(4) LANDFILL GAS.—The term ''landfill gas'' means gas generated from the decomposition of household solid waste, commercial solid waste, or industrial solid waste disposed of in a municipal solid waste landfill unit (as

those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

(5) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen that is produced from a renewable energy source.

(6) RENEWABLE ENERGY SOURCE.—The term ''renewable energy source'' means—

(A) wind;

(B) ocean waves;

(C) biomass;

(D) solar sources;

(E) landfill gas;

(F) incremental hydropower; or

(G) a geothermal source.

(7) RETAIL ELECTRIC SUPPLIER.—The term ''retail electric supplier'', with respect to any calendar year, means a person or entity that—

(A) sells retail electricity to consumers; and

(B) sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. RENEWABLE ENERGY GENERATION STANDARDS.

(a) RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—For each calendar year beginning in calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of nonhydropower electricity sold to consumers during the previous calendar year.

(2) CARRYOVER OF RENEWABLE ENERGY CREDITS.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next 2 years.

(b) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of nonhydropower electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

Calendar year:	Percentage of Renewable energy each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20.

(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—To meet the requirements under subsection (a), a retail electric supplier shall submit to the Secretary—

(A) renewable energy credits issued to the retail electric supplier under subsection (e);

(B) renewable energy credits obtained by purchase or exchange under subsection (f);

(C) renewable energy credits purchased from the United States under subsection (g); or

(D) any combination of renewable energy credits obtained under subsections (e), (f), and (g).

(2) NO DOUBLE COUNTING.—A renewable energy credit may be counted toward compliance with subsection (a) only once.

(d) RENEWABLE ENERGY CREDIT PROGRAM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to issue, monitor the sale or exchange of, and track renewable energy credits.

(e) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

(1) APPLICATION.—

(A) IN GENERAL.—Under the program established under subsection (d), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

(B) CONTENTS.—An application under subparagraph (A) shall indicate—

(i) the type of renewable energy resource used to produce the electric energy;

(ii) the State in which the electric energy was produced; and

(iii) any other information that the Secretary determines to be appropriate.

(2) ISSUANCES.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Secretary shall issue to an entity applying under this subsection 1 renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this Act and in each subsequent calendar year.

(B) VESTING.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless the owner explicitly transfers the renewable energy credit.

(C) AMOUNT.—The Secretary shall issue 3 renewable energy credits for each kilowatt-hour of distributed generation.

(3) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator.

(B) ENERGY GENERATED FROM A COMBINATION OF SOURCES.—If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

(C) IDENTIFICATION OF TYPE AND DATE.—The Secretary shall identify renewable energy credits by the type and date of generation.

(4) SALE UNDER CONTRACT UNDER PURPA.—In a case in which a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a–3), the retail electric supplier shall be treated as the generator of the electric energy for the purposes of this Act for the duration of the contract.

(f) SALE OR EXCHANGE OF RENWABLE ENERGY CREDITS.—

(1) IN GENERAL.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit.

(2) MANNER OF SALE.—A renewable energy credit may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

(g) PURCHASE FROM THE UNITED STATES.—

(1) IN GENERAL.—The Secretary shall offer renewable energy credits for sale at the lesser of 3 cents per kilowatt-hour or 110 percent of the average market value of renewable energy credits for the applicable compliance period.

(2) ADJUSTMENT FOR INFLATION.—On January 1 of each year following calendar year 2006, the Secretary shall adjust for inflation the price charged per renewable energy credit for the calendar year.

(h) STATE PROGRAMS.—Nothing in this section precludes any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State not in conflict with this Act.

(i) CONSUMER ALLOCATION.—

(1) RATES.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (a).

(2) REPRESENTATIONS TO CUSTOMERS.—A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (a).

(j) ENFORCEMENT.—

(1) IN GENERAL.—A retail electric supplier that does not submit renewable energy credits as required under subsection (a) shall be liable for the payment of a civil penalty.

(2) AMOUNT.—The amount of a civil penalty under paragraph (1) shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of renewable energy credits for the compliance period.

(k) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

(3) the quantity of electricity sales of all retail electric suppliers.

(l) VOLUNTARY PARTICIPATION.—The Secretary may issue a renewable energy credit under subsection (e) to any entity not subject to the requirements of this Act only if the entity applying for the renewable energy credit meets the terms and conditions of this Act to the same extent as entities subject to this Act.

SEC. 4. STATE RENEWABLE ENERGY GRANT PROGRAM.

(a) DISTRIBUTION OF AMOUNTS.—The Secretary shall distribute amounts received from sales under subsection 3(h) and from amounts received under subsection 3(k) to States to be used for the purposes of this section.

(b) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to promote State renewable energy production and use.

(2) USE OF FUNDS.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—

(A) renewable energy research and development;

(B) loan guarantees to encourage construction of renewable energy facilities;

(C) consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems including solar hot water; or

(D) promotion of distributed generation.

(c) PREFERENCE.—In allocating funds under the program, the Secretary shall give preference to—

(1) States that have a disproportionately small share of economically sustainable renewable energy generation capacity; and

(2) State grant programs that are most likely to stimulate or enhance innovative renewable energy technologies.

By Mr. MCCAIN:

S. 945. A bill to amend title 37, United States Code, to improve the process for adjusting the rates of pay for members of the uniformed services; to the Committee on Armed Services.

Mr. MCCAIN. Mr. President, I am proud to sponsor the Military Pay Comparability Act of 2003. In 1999, the Committee on Armed Services passed landmark legislation providing significant benefits to the entire Total Force. I believe we must improve upon this legislation so that we not only eliminate ''pay comparability gap,'' but ensure that we do not recreate one in the future.

Under the 1999 legislation, military raises will exceed growth in the ECI by one-half percent per year through fiscal year 2006. However, starting in 2007, military raises will revert to being capped one-half percentage point below the ECI.

As a former ranking member and long-time member on the Personnel Subcommittee when Senator John Glenn was the chairman, my experience with capping military raises below ECI during the last three decades shows that such caps inevitably lead to significant retention problems among second-term and career service members.

Those retention problems cost our Nation more in the long run in terms of lost military experience, decreased readiness, and increased training costs. Since military pay was last comparable with private sector pay in 1982, military pay raises have lagged a cumulative 6.4 percent behind private sector wage growth—although recent efforts of the executive and legislative branches have reduced the gap significantly from its peak of 13.5 percent in 1999. Our efforts in 1999 increased pay raises, reformed the pay tables, took nearly 12,000 service members off of food stamps, and established a military Thrift Savings Plan.

We have to improve upon the 1999 law to ensure future raises track to civilian pay growth so we don't fall back into pay caps that will get us back in the negative retention/readiness cycle. Subsequent raises after 2006 must sustain full comparability with increases in the ECI. A key principal of the all volunteer force, AVF, is that military pay raises must match private sector pay growth, as measured by ECI. Our action in this area will send a strong message of support to our service men and women and their families that will continue to promote high morale, better quality-of-life, and a more ready military force.

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. 945

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

SECTION 1. REVISED ANNUAL PAY ADJUSTMENT PROCESS.

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Subsection (a) of section 1009 of title 37, United States Code, is amended to read as follows:

''(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.''.

(b) EFFECTIVENESS OF ADJUSTMENT.—Subsection (b) of such section is amended by striking ''shall—'' and all that follows and inserting ''shall have the force and effect of law.''.

(c) PERCENTAGE OF ADJUSTMENT.—Subsection (c) of such section is amended to read as follow:

''(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) Subject to subsection (d), an adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of 1 percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

''(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of 1 percentage point higher than the percentage that would otherwise be applicable under such paragraph.''.

(d) PUBLICATION OF ADJUSTED RATES.—Subsection (e) of such section is amended—

(1) by striking ''(e) NOTICE OF ALLOCATIONS.—'' and inserting ''(e) NOTIFICATION AND PUBLICATION REQUIREMENTS.—(1)''; and

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

''(2) The rates of basic pay that take effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.''.

(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—Such section is further amended—

(1) by redesignating subsection (g) as subsection (h); and

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

''(g) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

''(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

''(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government's ability to recruit and retain well-qualified persons for the uniformed services.''.

(f) DEFINITIONS.—Such section, as amended by subsection (e), is further amended by adding at the end the following:

''(i) DEFINITIONS.—In this section:

''(1) The term 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

''(2) The term 'base quarter' for any year is the 3-month period ending on September 30 of such year.''.

By Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. FEINGOLD, Mr. KOHL, and Mr. SCHUMER):

S. 946. A bill to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, last November, the Drug Competition Act passed the Senate by unanimous consent. This morning, I am proud to join Senator GRASSLEY, along with Senators Durbin, Feingold, Kohl and Schumer in re-introducing this important bill, I hope that in this Congress it is actually enacted into law. Prescription drug prices are rapidly increasing, and are a source of considerable concern to many Americans, especially senior citizens and families. Generic drug prices can be as much as 80 percent lower than the comparable brand name version.

While the Drug Competition Act is small in terms of length, it is large in terms of impact. It will ensure that law enforcement agencies can take quick and decisive action against companies that are driven more by greed than by good sense. It gives the Federal Trade Commission and the Justice Department access to information about secret deals between drug companies that keep generic drugs off the market. This is a practice that hurts American families, particularly senior citizens, by denying them access to low-cost generic drugs, and further inflating medical costs.

Last fall, the Federal Trade Commission released a comprehensive report on barriers the entry of generic drugs into the pharmaceutical marketplace. The FTC had two recommendations to improve the current situation and to close the loopholes in the law that allow drug manufacturers to manipulate the timing of generics' introduction to the market. One of those recommendations was simply to enact our bill, as the most effective solution to the problem of ''sweetheart'' deals between brand name and generic drug manufacturers that keep generic drugs off the market, thus depriving consumers of the benefits of quality drugs at lower prices. In short, this bill enjoys the unqualified endorsement of the current FTC, which follows on the support by the Clinton Administration's FTC during the initial stages of our formulation of this bill. We can all have every confidence in the common sense approach that our bill takes to ensuring that our law enforcement agencies have the information they need to take quick action, if necessary, to protect consumers from drug companies that abuse the law.

Under current law, the first generic manufacturer that gets permission to sell a generic drug before the patent on the brand-name drug expires, enjoys protection from competition for 180

days—a headstart on other generic companies. That was a good idea—but the unfortunate loophole exploited by a few is that secret deals can be made that allow the manufacturer of the generic drug to claim the 180-day grace period—to block other generic drugs from entering the market—while, at the same time, getting paid by the brand-name manufacturer not to sell the generic drug.

Our legislation closes this loophole for those who want to cheat the public, but keeps the system the same for companies engaged in true competition. I think it is important for Congress not to overreact and throw out the good with the bad. Most generic companies want to take advantage of this 180-day provision and deliver quality generic drugs at much lower costs for consumers. We should not eliminate the incentive for them. Instead, we should let the FTC and Justice look at every deal that could lead to abuse, so that only the deals that are consistent with the intent of that law will be allowed to stand. The Drug Competition Act accomplishes precisely that goal, and helps ensure effective and timely access to generic pharmaceuticals that can lower the cost of prescription drugs for seniors, for families, and for all of us.

I regret that some in the Senate stalled action on this worthwhile measure until very late in the last Congress and that the House chose not to act at all, and I hope that the growing need for more cost-effective health care solutions will serve as a catalyst for quick action on this needed legislation.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator LEAHY today in introducing the Drug Competition Act of 2003. This bill will help Federal regulators ensure that there is full and unfettered access to competition for prescription drugs under the law. As the past Chairman of the Special Committee on Aging and now as the Chairman of the Finance Committee, I want to make sure that American consumers—especially our seniors—are able to get the life-saving drugs they need in a competitive manner.

Our patent laws provide drug companies with incentives to invest in research and development of new drugs. But the law also provides that generic drug companies have the ability to get their own drugs on the market so that there can be price competition and lower prices for prescription drugs. We have a legal system in place that provides for such a balance—the Hatch-Waxman law. Ultimately, we want consumers and seniors to have more choices and to get drugs at lower prices.

So, I was concerned when I heard reports that the Federal Trade Commission had brought enforcement actions against brand-name and generic drug manufacturers that had entered into anti-competitive agreements, resulting in the delay of the introduction of lower priced drugs. This bill targets that problem.

Under the Hatch-Waxman Act, manufacturers of generic drugs are encouraged to challenge weak or invalid patents on brand-name drugs so consumers can benefit from lower generic drug prices. Current law gives temporary protection from competition to the first generic drug manufacturer that gets exclusive permission to sell a generic drug before the patent on the brand-name drug expires. This gives the generic firm a 180-day head start on other generic companies.

However, the FTC discovered that some companies were exploiting this law by entering into secret deals, which allowed the generic drug makers to claim the 180-day grace period and to block other generic drugs from entering the market, while at the same time getting paid by the brand-name manufacturer for withholding sales of the generic version of the drug. This meant that consumers continued to pay high prices for drugs, rather than benefiting from more competitive and lower prices. So the FTC brought enforcement actions against these companies.

In addition, the FTC conducted a comprehensive review of agreements that impacted the 180-day exclusivity period. The FTC found that there are competition problems with some of these agreements that potentially delayed generic drug entry into the market. The FTC recommended:

Given this history, we believe that notification of such agreements to the Federal Trade Commission and the U.S. Department of Justice is warranted. We support the Drug Competition Act of 2001, S. 754, introduced by Senator Leahy, as reported by the Committee on the Judiciary.

The Drug Competition Act is a simple solution to the 180-day exclusivity problems that the FTC has identified. The bill would require drug companies that enter agreements relating to the 180-day period to file those documents with the FTC and DOJ. It would impose sanctions on companies who do not provide timely notification. This process would facilitate agency review of the agreements to determine whether they have anti-competitive effects.

The Drug Competition Act will ensure that consumers are not hurt by secret, anti-competitive contracts, so that consumers can get competition and lower drug prices as soon as possible. I urge my colleagues to support this bill.

By Mr. SCHUMER:

S. 948. A bill to require prescription drug manufacturers, packers, and distributors to disclose certain gifts provided in connection with detailing, promotional, or other marketing activities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 948

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 ''Drug Company Gift Disclosure Act''.

SEC. 2. DISCLOSURE BY PRESCRIPTION DRUG MANUFACTURERS, PACKERS, AND DISTRIBUTORS OF CERTAIN GIFTS.

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) Each manufacturer, packer, or distributor of a drug subject to subsection (b)(1) shall disclose to the Commissioner—

''(A) not later than June 30, 2004, and each June 30 thereafter, the value, nature, and purpose of any—

''(i) gift provided during the preceding calendar year to any covered health entity by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

''(ii) cash rebate, discount, or any other financial consideration provided during the preceding calendar year to any pharmaceutical benefit manager by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

''(B) not later than the date that is 6 months after the date of enactment of this subsection and each June 30 thereafter, the name and address of the individual responsible for the compliance of the manufacturer, packer, or distributor with the provisions of this subsection.

''(2) Subject to paragraph (3), the Commissioner shall make all information disclosed to the Commissioner under paragraph (1) publicly available, including by posting such information on the Internet.

''(3) The Commissioner shall keep confidential any information disclosed to or otherwise obtained by the Commissioner under this subsection that relates to a trade secret referred to in section 1905 of title 18, United States Code. The Commissioner shall provide an opportunity in the disclosure form required under paragraph (4) for a manufacturer, packer, or distributor to identify any such information.

''(4) Each disclosure under this subsection shall be made in such form and manner as the Commissioner may require.

''(5) Each manufacturer, packer, and distributor described in paragraph (1) shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful failure to disclose shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

''(6) For purposes of this subsection:

''(A) The term 'covered health entity' includes any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to prescribe or dispense drugs that are subject to subsection (b)(1), in the District of Columbia or any State, commonwealth, possession, or territory of the United States.

''(B) The term 'gift' includes any gift, fee, payment, subsidy, or other economic benefit with a value of $50 or more, except that such term excludes the following:

''(i) Free samples of drugs subject to subsection (b)(1) intended to be distributed to patients.

''(ii) The payment of reasonable compensation and reimbursement of expenses in connection with any bona fide clinical trial conducted in connection with a research study

designed to answer specific questions about drugs, devices, new therapies, or new ways of using known treatments.

''(iii) Any scholarship or other support for medical students, residents, or fellows selected by a national, regional, or specialty medical or other professional association to attend a significant educational, scientific, or policy-making conference of the association.''.

By Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN):

S. 949. A bill to establish a commission to assess the military facility structure of the United States overseas, and for other purposes; to the Committee on Armed Services.

Mrs. HUTCHISON. Mr. President, today Senator FEINSTEIN and I are introducing the ''Overseas Military Facility Structure Review Act'' to establish a congressional panel to conduct a detailed study of U.S. military facilities overseas. This bill creates a bipartisan congressional commission charged with undertaking an objective and thorough review of our overseas basing structure. The commission will consider a host of criteria to determine whether our overseas bases are prepared to meet our needs in the 21st Century. The commission will be comprised of national security and foreign affairs experts who will present their findings to the 2005 domestic Base Realignment and Closure, BRAC, Commission, providing a comprehensive analysis of our worldwide base and force structure.

We believe it is important to determine our overseas basing requirements, assess training constraints, and provide recommendations on future realignments. As a result, we are proposing legislation that would create a congressional Overseas Basing Commission to review our basing strategy to ensure that it is consistent with both our short- and long-term national security objectives. We believe the time is right to move forward with a more structured approach to reviewing these overseas bases.

Such a review is timely. The 2005 BRAC is just around the corner and some in the Pentagon have suggested it could result in the closure of nearly one out of every four domestic bases. Before we close stateside military bases, we must first analyze our overseas infrastructure. If we reduce our overseas presence, we need stateside bases to station returning troops. It is senseless to close bases on U.S. soil in 2005 only to determine a few years later that we made a costly, irrevocable mistake. A painful lesson we learned in the last rounds of closures.

Though our military force structure has decreased since the Cold War, the responsibilities placed upon our service members have significantly increased. While operational effectiveness is paramount, it would be irresponsible to build on an inefficient, obsolete overseas base structure, as we face new strategic threats in the 21st century, taking valuable dollars needed elsewhere.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 122—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD DESIGNATE MAY 1, 2003 AS ''NATIONAL CHILD CARE WORTHY WAGE DAY''

Mr. CORZINE (for himself, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. KERRY, Mrs. MURRAY, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 122

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the average salary of early childhood educators is $16,000 per year, and only one third of these educators have health insurance and even fewer have a pension plan;

Whereas low wages make it difficult to attract qualified individuals to the early childhood education profession and impair the quality of child care and other early childhood education programs, which is directly linked to the quality of early childhood educators;

Whereas the turnover rate of early childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early childhood educators must be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school;

Whereas the cost of adequate compensation for early childhood educators cannot be funded by further burdening parents with higher child care fees, but requires instead public as well as private resources to ensure that quality care and education is accessible for all families; and

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CHILD CARE WORTHY WAGE DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate May 1, 2003, as ''National Child Care Worthy Wage Day''.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating May 1, 2003, as ''National Child Care Worthy Wage Day''; and

(2) calling on the people of the United States to observe ''National Child Care Worthy Wage Day'' by—

(A) honoring early childhood educators and programs in their communities; and

(B) working together to resolve the early childhood educator compensation crisis.

Mr. CORZINE. Mr. President, I rise today to submit, along with Senators DODD, DURBIN, FEINGOLD, KENNEDY, KERRY and MURRAY, a resolution supporting national Child Care Worthy Wage Day. It is my hope that it will bring attention to early childhood education and the importance of attracting and retaining qualified childcare workers.

Every day, approximately 13 million children are cared for outside the home so that their parents can work. This figure includes 6 million of our Nation's infants and toddlers. Children begin to learn at birth, and the quality of care they receive will affect them for the rest of their lives. Early childcare affects language development, math skills, social behavior, and general readiness for school. Experienced childcare workers can identify children who have development or emotional problems and provide the care they need to take on life's challenges. Through the creative use of play, structured activities and individual attention, childcare workers help young children learn about the world around them and how to interact with others. They also teach the skills children will need to be ready to read and to learn when they go to school.

Unfortunately, despite the importance of their work, the committed individuals who nurture and teach our Nation's young children are undervalued. The average salary of a childcare worker is about $15,000 annually. In 1998, the middle 50 percent of childcare workers and pre-school teachers earned between $5.82 and $8.13 an hour, according to the Department of Labor. The lowest 10 percent of childcare workers were paid an hourly rate of $5.49 or less. Only one third of our Nation's childcare workers have health insurance and even fewer have pension plans. This grossly inadequate level of wages and benefits for childcare staff has led to difficulties in attracting and retaining high quality caretakers and educators. As a result, the turnover rate for childcare providers is 30 percent a year. This high turnover rate interrupts consistent and stable relationships that children need to have with their caregivers.

If we want our children cared for by qualified providers with higher degrees and more training, we will have to make sure they are adequately compensated. Otherwise, we will continue to lose early childhood educators with BA degrees to kindergarten and first grade, losing some of our best teachers of young children from the early years of learning.

In order to bring attention to childcare workers, I am sponsoring a resolution that would designate May 1 as National Child Care Worthy Wage Day. On May 1 each year, childcare providers and other early childhood professionals nationwide conduct public awareness and education efforts highlighting the importance of good early childhood education.

I encourage my colleagues to join me in recognizing the importance of the work and professionalism that childcare workers provide and the need to increase their compensation accordingly. The Nation's childcare workforce, the families who depend on them, and the children they care for, deserve our support.