S. Res. 12. A resolution to make effective reappointment of Senate Legal Counsel; considered and agreed to.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 13. A resolution to make effective reappointment of Deputy Senate Legal Counsel; considered and agreed to.

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

S. Res. 14. A resolution commending the Ohio State University Buckeyes football team for winning the 2002 NCAA Division 1–A collegiate national football championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mrs. MURRAY, Ms. MIKULSKI, MR. DODD, Mr. BREAUX, Mr. JOHNSON, Mr. LEAHY, Mr. ROCKEFELLER, Mr. LEVIN, Mr. DURBIN, Mr. SARBANES, Mrs. CLINTON, Mr. AKAKA, Mr. SCHUMER, Mr. BIDEN, Ms. STABENOW, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, Mr. REID, and Mr. BAUCUS):

S. 8. A bill to encourage lifelong learning by investing in public schools and improving access to and affordability of higher education and job training; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. STABENOW, Mrs. CLINTON, Mr. SCHUMER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LEVIN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. REID, and Mr. PRYOR):

S. 10. A bill to protect consumers in managed care plans and other health coverage, to provide for parity with respect to mental health coverage, to reduce medical errors, and to increase the access of individuals to quality health care; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mrs. CLINTON, Mr. LEAHY, Mr. ROCKFELLER, Mr. BINGAMAN, Mrs. MURRAY, Mr. LEVIN, Mr. DURBIN, Mr. SARBANES, Mr. AKAKA, Mr. SCHUMER, Mr. REED, Mr. JOHNSON, Mr. BIDEN, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, and Mr. REID):

S. 18. A bill to improve early learning opportunities and promote preparedness by increasing the availability of Head Start programs, to increase the availability and affordability of quality child care, to reduce child hunger and encourage healthy eating habits, to facilitate parental involvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. AKAKA, Ms. CANTWELL, Mr. DURBIN, Mr. FEINGOLD, Mr. KENNEDY, Ms. LANDRIEU, Mr. LEVIN, Mr. SARBANES, Mrs. CLINTON, Mr. DODD, Mr. JOHNSON, Mr. LEAHY, Mrs. MURRAY, Mr. REID, Mr. SCHUMER, Mr. BINGAMAN, and Mr. BREAUX):

S. 76. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

DEMOCRATIC LEADERSHIP PRIORITIES FOR THE 108TH CONGRESS

Mr. DASCHLE. Mr. President, officially, the Congress that ended in December was the 107th Congress. But history will almost surely record it as the September 11th Congress. From the moment the first plane hit the first tower until the last moments of the lameduck session, helping America recover from that horrific day, bringing its plotters to justice and making changes to protect America from future terrorist attacks dominated the Senate's agenda.

We continued that work—even as we confronted unprecedented challenges in the Senate: anthrax, the rise of new threats to our Nation, and the loss of our friend and colleague, Paul Wellstone.

Through tragic and historic events, the 107th Senate under Democratic control produced a number of important legislative accomplishments: aviation security and counterterrorism legislation; the toughest corporate accountability law since the SEC was created in 1934; the most far-reaching campaign finance reforms since Watergate; the most significant overhaul of Federal education policies since 1965; and a new farm bill to replace the failed Freedom to Farm Act.

However, other important legislation fell victim to special-interest armtwisting, and the other party's unwillingness to compromise on their proposals, or even consider ours. We saw that on proposals to dedicate greater resources to homeland security, a Medicare prescription drug benefit, and a real, enforceable patients' bill of rights.

The proposals we are introducing today recognize that the American people have real concerns about their security, and that Republicans and the Bush administration have not done enough to address those concerns.

But they also recognize that security means more than national security, and homeland security. It means economic security, retirement security, and the security of knowing that our children are getting a good education, and that, if you get sick, health care is available and affordable. It means giving people who work fulltime the security of knowing they can earn a decent wage—whether they work on a farm, in a factory, or at a fast-food restaurant. It is the security of knowing that our air is safe to breathe and our water is safe to drink, that America is living up to its commitment to civil rights, and that we are keeping our promises to our veterans.

Democrats are committed to tackling terrorism abroad, and making our country more secure.

One of our first priorities will be to make Americans safer by enhancing protections for our ports, borders, food and water supplies, and chemical and nuclear plants.

We are introducing a bill to commit real resources to doing all of those things, and to hiring more police and first responders and providing them the tools and training to do the difficult jobs we are now asking them to do.

We also recognize that national strength also depends on economic strength, and in the last 2 years, America's economy has weakened. In the coming weeks, we will put forward our ideas for how best to stimulate the economy in the short term.

But, in the long term, one of the most important things we can do is give people greater confidence that their private pensions will be there for them. That is why another of our leadership bills is one to strengthen pension protections, expand pension coverage, and crack down on rogue corporations.

It has been said that almost every problem any society faces can be solved with two things: good health, and a good education—and we have bills in each of those areas.

The Right Start for Children Act makes Head Start fully available for 4- and 5-year-olds, and increases availability for infants and toddlers. It will help improve childcare quality, make childcare more affordable for 1 million additional children, and strengthen child nutrition programs to reduce child hunger.

The Educational Excellence for All Learners Act builds on that foundation by improving education every step of the way—from kindergarten, to college, to lifelong learning. It makes sure that we match the real reforms we passed last year with the real resources they demand. It will help us recruit, hire, and train qualified teachers, build new schools, and make college and job training more affordable and more available.

President Bush pledged to leave no child behind, and then proposed more than a billion dollars of education cuts. We are proposing to put our money where the Republicans' mouths are—and help secure a good start, a good education, and good prospects for all Americans.

When it comes to health care, it was an outrage that 40 million Americans were uninsured 2 years ago. In the past year, over 1 million more Americans have lost health insurance. And those who are lucky enough to have health insurance are seeing their premiums skyrocket.

With the Health Care Coverage Expansion and Quality Improvement Act, we hope to reduce the number of uninsured by making health care coverage more available to small businesses, parents of children eligible for

CHIP and Medicaid, pregnant women, and others.

We also want to improve the quality of care people receive by overcoming Republican resistance to a real, enforceable, patients' bill of rights.

We will also insist that mental illness be treated like any other illness—something that will not only honor Paul Wellstone's legacy, but also help millions of families.

We are also committed to passing a prescription drug benefit under Medicare, and lowering the price of prescription drugs for all Americans. Last year, we passed a bill to lower the price of generic drugs, but the House refused to take it up. And we had 52 Senators support our Medicare prescription drug benefit—but it was blocked on a procedural motion.

The high cost of prescription drugs—combined with the increasing need for such drugs—is destroying the life savings—and threatening the dignity—of millions of older Americans. And that is simply unacceptable.

A couple of months ago in elections all across the country, and in words spoken here in the Senate, we have seen that when it comes to protecting equal rights, we still have a lot of work to do in changing hearts, minds, and laws.

That is why we are introducing The Equal Rights and Equal Dignity for Americans Act. This bill will enforce employment nondiscrimination, fund the election-reform measures we passed last year, outlaw hate crimes, and take other steps to see that as a nation, we live up to the promise of equal rights.

I hope those Republicans who have recently expressed their support for civil rights will join us in expressing their support for this legislation. I also hope they will join us in supporting our bill to combat drug and gun violence, to crack down on new crimes like identity theft, and to protect against and prevent crimes against children and seniors.

We also need to ensure greater dignity for our minimum wage workers, our farmers, and our veterans. The purchasing power of the minimum wage is now the lowest it has been in more than 30 years. And a full-time minimum wage income won't get you over the poverty line. If we can afford over a trillion dollars in tax cuts for those at the top of the income scale, we can afford a dollar fifty more an hour for those at the bottom.

We need to help our rural economy, and help those impacted by a drought and other natural disasters that are being called among the costliest for agricultural producers in our Nation's history.

And we need to maintain our commitment to those currently serving, and keep our promises to our veterans. One way we do that is by allowing our wounded veterans to receive both their full disability and retirement benefits. Another way is by addressing the current crisis in veterans' health care. With each of these proposals—we stand with the leading veterans organizations, and for those who served our country.

Finally, we are committed to stopping what is adding up to an all-out assault on our environment. By unilaterally abandoning the Kyoto process, the Bush administration took us out of position to lead the world on the issue of climate change. The Global Climate Security Act will help America reassert our position of world leadership on this vital issue of world health.

Each of these things is relevant, not revolutionary. If they seem familiar, it is because most of what is in them has been introduced before.

But they are not law, despite the support of the American people and, in some cases, a bipartisan majority of Senators.

They have been opposed by an extreme few, and their special interest supporters. And while those bills have languished, we have seen the rise of more threats to our country; more people have lost their jobs and their health care; and more of our national challenges have gone unmet.

These are our priorities. In the last couple of days, the President has made clear his priorities—more tax cuts for those who need them least.

The President's plan won't help middle income families. It won't contribute to economic growth; it won't make our homeland more secure; it won't expand educational opportunity for the young, or strengthen health care for the elderly.

Instead—by putting us deeper into deficit and debt—it makes all of these things, and all of our other goals, harder to achieve.

Our bills will help us create an America that is stronger, safer, and better for all Americans—and I hope my colleagues will join me in supporting them.

By Mrs. HUTCHISON:

S. 24. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income dividends received by individuals; to the Committee on Finance

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By Mrs. HUTCHISON:

S. 25. A bill to amend the Internal Revenue Code of 1986 to provide that dividend income of individuals not be taxed at rates in excess of the maximum capital gains rate; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 26. A bill to amend the Internal Revenue Code of 1986 to provide that dividend and interest income of individuals not be taxed at rates in excess of the maximum capital gains rate; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a package of three bills I hope will be the starting point for a long overdue discussion on reducing taxes on investment income, particularly dividends. The first bill would completely eliminate taxes on dividends. The second bill would reduce the tax on dividends to the capital gains rate. The third bill would lower the tax to the capital gains rate on dividends and interest income. These bills would not only stimulate the economy, but also correct long-term problems with the tax code.

The economy is currently on the way to recovery but faces significant bottlenecks along the way. Following a mild recession, we are experiencing moderate growth. Many believe we will continue on a slow yet steady pace, but we are not yet in the clear. We must take aggressive steps to create jobs and ensure the economy gets moving again.

The most effective tool government has for promoting growth is the tax code. By lowering taxes we allow people to keep more of their money and spend it more effectively than the government ever could.

Lowering the taxes on investment income would stimulate the economy on several levels. First, we would leave more money in the pockets of families to spend. Second, lowering taxes on dividends would encourage investors to re-enter the stock market and realize higher returns since the government would be taking less. The increased demand for stocks would stabilize the market and encourage economic growth. Third, these tax cuts would ultimately help to reduce the deficit as tax revenues increase from higher economic growth and increased capital gains revenue.

A tax cut on investment income would particularly help the elderly and others who rely on fixed incomes. A third of seniors received dividend income and more than half of dividends go to seniors. With such pressures as the rising cost of healthcare, it is critical that we let them keep as much of their money as possible. Also, these tax cuts would help a broad cross-section of Americans. For example, almost half of those who receive dividends have income of less than $50,000.

One of the problems with our tax code is the double taxation of dividends. People have already paid taxes on the money they use to invest. Then they must pay taxes on their investment income. This is not fair and discourages savings.

Also, companies must use after-tax dollars to pay dividends. Investors then have to pay taxes on their dividend income at the ordinary income tax rates. This leads to two unintended consequences.

First, it encourages investors to focus on returns through stock price appreciation, which are taxed at the lower capital gains rate. People are encouraged to invest in higher growth, but often in riskier companies, rather than more stable, dividend-paying companies. As anyone can see from the collapse of stock prices in high-growth sectors over the past two years, the current incentives in the tax code may

not lead to the best decisions for investors.

Second, the double taxation of dividends encourages companies to raise capital by loading up on debt rather than issuing stock, because interest expense on debt can lower a company's taxes while dividend payments do not. This leads to an increase in highly leveraged companies that are at greater financial risk when the economy slows.

Whether investors should invest in growth stocks is a decision that must be left to individuals. Likewise, the issuance of debt is best decided by the company in question. By lowering the tax rates on dividends and interest income, we would reduce the influence of taxes on these decisions.

Increasingly, America is a Nation of investors. Today, half of U.S. households own stock. The number of shareholders has increased more than 60 percent since 1989. Thus, it is critical to ensure our tax laws lead to rational decisionmaking; decisions based on the best investment choices, not guided by tax inequities. Let's take tax rates out of the capital allocation decision process. People should make investment decisions based on what is the best investment.

I call on the Senate to bolster the economy, help senior citizens meet their financial needs, and level the way we tax investment gains by lowering taxes on investment income. Today, I offer three alternatives I hope will lead to a constructive discussion and action to achieve these goals.

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

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

S. 24

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

SECTION 1. EXCLUSION OF DIVIDEND INCOME FROM TAX.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by inserting after section 115 the following new section:

"SEC. 116. EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

''(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include dividends otherwise includible in gross income which are received during the taxable year by an individual.

''(b) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organization) or section 521 (relating to farmers' cooperative associations).

''(c) SPECIAL RULES.—For purposes of this section—

''(1) EXCLUSION NOT TO APPLY TO CAPITAL GAIN DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"For treatment of capital gain dividends, see sections 854(a) and 857(c).

''(2) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

''(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

''(B) in determining the tax imposed for the taxable year pursuant to section 877(b).

''(3) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) shall not apply to any dividend described in section 404(k).''

(b) CONFORMING AMENDMENTS.—

(1)(A) Subparagraph (A) of section 135(c)(4) of such Code is amended by inserting ''116,'' before ''137''.

(B) Subsection (d) of section 135 of such Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH SECTION 116.—This section shall be applied before section 116.''

(2) Subsection (c) of section 584 of such Code is amended by adding at the end thereof the following new flush sentence:

''The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant.''

(3) Subsection (a) of section 643 of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DIVIDENDS.—There shall be included the amount of any dividends excluded from gross income pursuant to section 116.''

(4) Section 854(a) of such Code is amended by inserting ''section 116 (relating to exclusion of dividends received by individuals) and'' after ''For purposes of''.

(5) Section 857(c) of such Code is amended to read as follows:

''(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

''(1) TREATMENT FOR SECTION 116.—For purposes of section 116 (relating to exclusion of dividends received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

''(2) TREATMENT FOR SECTION 243.—For purposes of section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.''

(6) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Exclusion of dividends received by individuals.''

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

S. 25

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

SECTION 1. DIVIDENDS OF INDIVIDUALS TAXED AT CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(13) DIVIDENDS TAXED AS NET CAPITAL GAIN.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'net capital gain' means net capital gain (determined without regard to this paragraph), increased by qualified dividend income.

''(B) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified dividend income' means dividends received from domestic corporations during the taxable year.

''(ii) CERTAIN DIVIDENDS EXCLUDED.—Such term shall not include—

''(I) any dividend from a corporation which for the taxable year of the corporation in which the distribution is made, or the preceding taxable year, is a corporation exempt from tax under section 501 or 521,

''(II) any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.), and

''(III) any dividend described in section 404(k).

''(iii) MINIMUM HOLDING PERIOD.—Such term shall not include any dividend on any share of stock with respect to which the holding period requirements of section 246(c) are not met.

''(C) SPECIAL RULES.—

''(i) AMOUNTS TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—Qualified dividend income shall not include any amount which the taxpayer takes into account as investment income under section 163(d)(4)(B).

''(ii) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, subparagraph (A) shall apply only—

''(I) in determining the tax imposed for the taxable year pursuant to section 871(b) and only in respect of amounts which are effectively connected with the conduct of a trade or business within the United States, and

''(II) in determining the tax imposed for the taxable year pursuant to section 877.

''(iii) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"For treatment of dividends from regulated investment companies and real estate investment trusts, see sections 854 and 857."

(b) EXCLUSION OF DIVIDENDS FROM INVESTMENT INCOME.—Subparagraph (B) of section 163(d)(4) of the Internal Revenue Code of 1986 (defining net investment income) is amended by adding at the end the following flush sentence:

''Such term shall include qualified dividend income (as defined in section 1(h)(13)(B)) only to the extent the taxpayer elects to treat such income as investment income for purposes of this subsection.''

(c) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—

(1) Subsection (a) of section 854 of the Internal Revenue Code of 1986 (relating to dividends received from regulated investment companies) is amended by inserting ''section 1(h)(13) (relating to maximum rate of tax on dividends and interest) and'' after ''For purposes of''.

(2) Paragraph (1) of section 854(b) of such Code (relating to other dividends) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) MAXIMUM RATE UNDER SECTION 1(h).—

''(i) IN GENERAL.—If the aggregate dividends received by a regulated investment company during any taxable year is less than 95 percent of its gross income, then, in computing the maximum rate under section 1(h)(13), rules similar to the rules of subparagraph (A) shall apply.

''(ii) GROSS INCOME.—For purposes of clause (i), in the case of 1 or more sales or other dispositions of stock or securities, the term 'gross income' includes only the excess of—

''(I) the net short-term capital gain from such sales or dispositions, over

''(II) the net long-term capital loss from such sales or dispositions.''

(3) Subparagraph (C) of section 854(b)(1) of such Code, as redesignated by paragraph (2), is amended by striking ''subparagraph (A)'' and inserting ''subparagraph (A) or (B)''.

(4) Paragraph (2) of section 854(b) of such Code is amended by inserting ''the maximum rate under section 1(h)(13) and'' after ''for purposes of''.

(d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—Section 857(c) of the Internal Revenue Code of 1986 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

''(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For purposes of section 1(h)(13) (relating to maximum rate of tax on dividends) and section 243 (relating to deductions received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered a dividend.''

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

S. 26

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

SECTION 1. DIVIDENDS AND INTEREST OF INDIVIDUALS TAXED AT CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(13) DIVIDENDS AND INTEREST TAXED AS NET CAPITAL GAIN.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'net capital gain' means net capital gain (determined without regard to this paragraph), increased by qualified dividend income and qualified interest income.

''(B) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified dividend income' means dividends received from domestic corporations during the taxable year.

''(ii) CERTAIN DIVIDENDS EXCLUDED.—Such term shall not include—

''(I) any dividend from a corporation which for the taxable year of the corporation in which the distribution is made, or the preceding taxable year, is a corporation exempt from tax under section 501 or 521,

''(II) any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.), and

''(III) any dividend described in section 404(k).

''(iii) MINIMUM HOLDING PERIOD.—Such term shall not include any dividend on any share of stock with respect to which the holding period requirements of section 246(c) are not met.

''(C) QUALIFIED INTEREST INCOME.—For purposes of this paragraph, the term 'qualified interest income' means—

''(i) interest on deposits with a bank (as defined in section 581),

''(ii) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

''(I) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

''(II) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

''(iii) interest on—

''(I) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

''(II) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

''(iv) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

''(v) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

''(D) SPECIAL RULES.—

''(i) AMOUNTS TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—Qualified dividend income and qualified interest income shall not include any amount which the taxpayer takes into account as investment income under section 163(d)(4)(B).

''(ii) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, subparagraph (A) shall apply only—

''(I) in determining the tax imposed for the taxable year pursuant to section 871(b) and only in respect of amounts which are effectively connected with the conduct of a trade or business within the United States, and

''(II) in determining the tax imposed for the taxable year pursuant to section 877.

''(iii) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''For treatment of dividends from regulated investment companies and real estate investment trusts, see sections 854 and 857.''

(b) EXCLUSION OF DIVIDENDS AND INTEREST FROM INVESTMENT INCOME.—Subparagraph (B) of section 163(d)(4) of the Internal Revenue Code of 1986 (defining net investment income) is amended by adding at the end the following flush sentence:

''Such term shall include qualified dividend income (as defined in section 1(h)(13)(B)) or qualified interest income (as defined in section 1(h)(13)(C)) only to the extent the taxpayer elects to treat such income as investment income for purposes of this subsection.''

(c) TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—

(1) Subsection (a) of section 854 of the Internal Revenue Code of 1986 (relating to dividends received from regulated investment companies) is amended by inserting ''section 1(h)(13) (relating to maximum rate of tax on dividends and interest) and'' after ''For purposes of''.

(2) Paragraph (1) of section 854(b) of such Code (relating to other dividends) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) MAXIMUM RATE UNDER SECTION 1(h).—

''(i) IN GENERAL.—If the sum of the aggregate dividends received, and the aggregate interest described in section 1(h)(13)(C) received, by a regulated investment company during any taxable year is less than 95 percent of its gross income, then, in computing the maximum rate under section 1(h)(13), rules similar to the rules of subparagraph (A) shall apply.

''(ii) GROSS INCOME.—For purposes of clause (i), in the case of 1 or more sales or other dispositions of stock or securities, the term 'gross income' includes only the excess of—

''(I) the net short-term capital gain from such sales or dispositions, over

''(II) the net long-term capital loss from such sales or dispositions.''

(3) Subparagraph (C) of section 854(b)(1) of such Code, as redesignated by paragraph (2), is amended by striking ''subparagraph (A)'' and inserting ''subparagraph (A) or (B)''.

(4) Paragraph (2) of section 854(b) of such Code is amended by inserting ''the maximum rate under section 1(h)(13) and'' after ''for purposes of''.

(d) TREATMENT OF DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—Section 857(c) of the Internal Revenue Code of 1986 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

''(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

''(1) IN GENERAL.—For purposes of section 1(h)(13) (relating to maximum rate of tax on dividends and interest) and section 243 (relating to deductions received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered a dividend.

''(2) TREATMENT AS INTEREST.—

''(A) IN GENERAL.—For purposes of section 1(h)(13), in the case of a dividend (other than a capital gain dividend, as defined in subsection (b)(3)(C)) received from a real estate investment trust which meets the requirements of this part for the taxable year in which it paid—

''(i) such dividend shall be treated as interest if the aggregate interest received by the real estate investment trust for the taxable year equals or exceeds 75 percent of its gross income, or

''(ii) if clause (i) does not apply, the portion of such dividend which bears the same ratio to the amount of such dividend as the aggregate interest received bears to gross income shall be treated as interest.

''(B) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of subparagraph (B)—

''(i) gross income does not include the net capital gain,

''(ii) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received by the taxable year, and

''(iii) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

''(C) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, aggregate interest received shall be computed by taking into account only interest which is described in section 1(13)(C).

''(D) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as interest for purposes of section 1(h)(13) shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.''

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

By Mr. GRASSLEY (for himself, Mr. JOHNSON, Mr. ENZI, and Mr. HARKIN):

S. 27 A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for packet to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, the goal of the farm bill was to improve the economic condition of America's farmers over the next few years. However one of the many shortcomings of the new law is that it fails to protect family farmers and independent livestock producers from vertical integration in the livestock industry.

In recent years, family farmers from across Iowa have contacted me to express their fears about the threat they fell from concentration in the livestock industry. They fear that if the trend toward increased concentration continues, they may be unable to compete effectively and will not be able to get a fair price for their livestock in the marketplace.

The bill I am introducing would prevent meat packers from assuming complete control of the meat supply by preventing packers from owning livestock.

This bill would make it unlawful for a packer to own or feed livestock intended for slaughter. Single pack entities and packs too small to participate in the Mandatory Price Reporting program would be excluded from the limitation. In addition, farmer cooperatives in which the members own, feed, or control the livestock themselves would be exempt under this new bill.

We have tightened down the limitations in this new version of the packer ban. The last version provided an exemption to plants that killed less than 2 percent of the Nation's livestock, per commodity. That meant plants that killed less than 1.9 million pigs or approximately 725,000 cattle were excluded under the old version. We have changed the standard to be consistent with the Mandatory Price Reporting law and other legislation I've introduced. That means the new limit will be 125,000 for cattle and 100,000 for swine.

It's also important to realize that this is not the original version I cosponsored with Senator JOHNSON. Instead, this is the version I successfully offered on the floor during the debate on the farm bill that removed the word ''control'' so that the packers couldn't attack us with a red-herring argument.

It's important for our colleagues to remember that family farmers ultimately derive their income from the agricultural marketplace, not the farm bill. Family farmers have unfortunately been in a position of weakness in selling their product to large processors and in buying their inputs from large suppliers.

Today, the position of the family has become weaker as consolidation in agribusiness has reached all time highs. Farmers have fewer buyers and suppliers than ever before. The result is an increasing loss of family farms and the smallest farm share of the consumer dollar in history.

One hundred years ago, this Nation reacted appropriately to citizen concerns about large, powerful companies by establishing rules constraining such businesses when they achieved a level of market power that harmed, or risked harming, the public interest, trade and commerce. The United State Congress enacted the first competition laws in the world to make commerce more free and fair. These competition laws include the Sherman Act, Clayton Act, Federal Trade Commission Act and Packers & Stockyards Act.

Since that time, many countries in the world have followed this U.S. example to constrain undue market power in their domestic economies.

Unfortunately, competition policy has been severely weakened in this country, especially in agriculture, due to Federal case law, underfunded enforcement, and unfounded reliance on efficiency claims. The result has been a significant degradation of the domestic agricultural market infrastructure. The current situation reflects a tremendous mis-allocation of resources across the food chain. Congress must strengthen competition policy within the farm sector to reclaim a properly operating marketplace.

While this legislation does not accomplish all that we need to do in this area, it's an important first step toward remedying the biggest problem facing farmers today, the problem of concentration.

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

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

S. 27

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

SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

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

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

''(f) Own or feed livestock directly, through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the operation with respect to the production of the livestock, except that this subsection shall not apply to—

''(1) an arrangement entered into within 7 days (excluding any Saturday or Sunday) before slaughter of the livestock by a packer, a person acting through the packer, or a person that directly or indirectly controls, or is controlled by or under common control with, the packer;

''(2) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

''(A) own, feed, or control livestock; and

''(B) provide the livestock to the cooperative for slaughter;

''(3) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

''(4) a packer that owns 1 livestock processing plant; or''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

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

S. 30. A bill to redesignate the Colonnade Center in Denver, Colorado, as the ''Cesar E. Chavez Memorial Building''; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am introducing legislation to name the Federal building located at 1244 Speer Boulevard, Denver CO, as the ''Cesar E. Chavez Memorial Building.''

Cesar E. Chavez was an ordinary American who left behind an extraordinary legacy of commitment and accomplishment.

Born on March 31, 1927 in Yuma, AZ on a farm his grandfather homesteaded in the 1880's, he began his life as a migrant farm worker at the age of 10 when the family lost the farm during the Great Depression. Those were desperate years for the Chavez family as they joined the thousands of displaced people who were forced to migrate throughout the country to labor in the fields and vineyards.

Motivated by the poverty and harsh working conditions, he began to follow his dream of establishing an organization dedicated to helping these farm workers. In 1962 he founded the National Farm Workers Association which would eventually evolve into the United Farm Workers of America.

Over the next three decades with an unwavering commitment to democratic principals and a philosophy of non-violence he struggled to secure a living wage, health benefits and safe working conditions for arguably the most exploited work force in our country, that they might enjoy the basic protections and worker's right to which all Americans aspire.

In 1945, at the age of 18 Cesar Chavez joined the U.S. Navy and served his country for two years. He was the recipient of the Martin Luther King Jr.

Peace Prize as well as the Presidential Medal of Freedom, the highest award this country can bestow upon a civilian.

Chavez's efforts brought dignity and respect to this country's farm workers and in doing so became a hero, role model and inspiration to people engaged in human rights struggles throughout the world.

The naming of this building will keep alive the memory of his sacrifice and commitment for the millions of people whose lives he touched.

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. 30

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

SECTION 1. DESIGNATION OF CESAR E. CHAVEZ MEMORIAL BUILDING.

The building known as the ''Colonnade Center'', located at 1244 Speer Boulevard in Denver, Colorado, shall be known and designated as the ''Cesar E. Chavez Memorial Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Cesar E. Chavez Memorial Building.

By Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. KOHL):

S. 36. A bill to amend title XVIII of the Social Security Act to eliminate the geographic physician work adjustment factor from the geographic indices used to adjust payments under the physician fee schedule, to provide incentives necessary to attract educators and clinical practitioners to underserved areas, and to revise the area wage adjustment applicable under the prospective payment system for skilled nursing facilities; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to join with my colleagues from Maine to introduce legislation to restore fairness to the Medicare program. This package of legislation will reduce regional inequalities in Medicare spending and support providers of high-quality, low-cost Medicare services.

The high cost of health care in Wisconsin is skyrocketing: A survey issued a few days ago found that the cost of health care benefits for employees in this State rose 14.8 percent this year, to an average of $6,940 per employee. That's 20 percent high than the national average of $5,758 for workers in businesses with 500 or more employees.

These costs are hitting our State hard, they are burdening businesses and employees, hurting health care providers, and preventing seniors from getting full access to the care that they deserve.

One of the major contributing factors to the high cost in our state is the inherent unfairness of the Medicare Program.

With the guidance and support of people across our State who are fighting for Medicare fairness. I have proposed this legislation to address Medicare's discrimination against Wisconsin's seniors, employers and health care providers. The Medicare program should encourage the kind of high-quality, cost-effective Medicare services that we have in Wisconsin. But as many in Wisconsin know, that's not the case.

To give an idea of how inequitable the distribution of Medicare dollars is, imagine identical twins over the age of 65. Both twins worked at the same company all their lives, at the same salary, and paid the same amount to the Federal Government in payroll taxes, the tax that goes into the Medicare Trust Fund.

But if one twin retired to New Orleans, Louisiana, and the other retired to Eau Claire, Wisconsin, they would have vastly different health options under the Medicare system. The twin in Louisiana would get much more.

For example, in most parts of Louisiana, the first twin would have more options under Medicare. The high Medicare payments in those areas allow Medicare beneficiaries to choose between an HMO or traditional fee-for-service plan, and, because area health care providers are reimbursed at such a high rate, those providers can afford to offer seniors a broad range of health care services. The twin in Eau Claire does not have the same access to care, there are no options to choose from in terms of Medicare HMOs, and sometimes fewer health care agencies that can afford to provide care under the traditional fee-for-service plan.

How can two people with identical backgrounds, who paid the same amount in payroll taxes, have such different options under Medicare? They can because the distribution of Medicare dollars among the 50 States is grossly unfair to Wisconsin, and much of the Upper Midwest. Wisconsinites pay payroll taxes just like every American taxpayer, but the Medicare funds we get in return are lower than those received in many other states.

My legislation will take us a step in the right direction by reducing the inequities in Medicare payments to Wisconsin's hospitals, physicians, and skilled nursing facilities.

Last year, with the introduction my Medicare fairness legislation along with the efforts of many other Senators, we put Medicare fairness issues front and center in Congress. The Senate Budget Committee approved my amendment to promote Medicare fairness in any Medicare reform package. A wide range of Senators from both parties endorsed my proposal to create a Medicare fairness coalition. The House passed a number of Medicare fairness provisions that were a result of these successes, and both House and Senate leadership endorsed Medicare fairness issues. Now that we have finally brought these issues the attention that they deserve, we need to build on that momentum to pass Medicare fairness provisions into law.

My legislation demands Medicare fairness for Wisconsin and other affected States, plain and simple. Medicare shouldn't penalize high-quality providers of Medicare services, most of all. Medicare should stop penalizing seniors who depend on the program for their health care. They have worked had and paid into the program all their lives, and in return they deserve full access to the wide range of benefits that Medicare has to offer.

I look forward to working with my colleagues to move this legislation forward. I believe that we can re-balance the budget, while at the same time encouraging efficient, quality enhancing services, and that's what my legislation sets out to do.

By Mr. MCCONNELL (for himself and Mr. BUNNING):

S. 37. A bill to amend title II of the Social Security Act to permit Kentucky to operate a separate retirement system for certain public employees; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, I rise today to introduce legislation to add Kentucky to the list of States that are permitted to offer ''divided retirement'' plans under the Social Security Act.

Last year, I was contacted by Brian James, President of the Louisville Fraternal Order of Police, FOP, and Tony Cobaugh, President of the Jefferson County FOP. These two law enforcement leaders called my attention to a problem that could jeopardize the retirement security of many of our community's police, fire, and emergency personnel.

In November of 2000, the citizens of Jefferson County and the City of Louisville, Kentucky voted to merge their communities and respective governments into a single entity, which will be known as Greater Louisville. As one might expect, combining two large metropolitan governments in such a short time frame cannot be done without encountering a few difficulties along the way. Jefferson County and the City of Louisville currently operate two very different retirement programs for their police officers. When these two governments merge today, current federal law will require the new government to offer a single retirement plan that could dramatically increase the cost of retirement for both our dedicated public safety officers and the new Greater Louisville government.

Thankfully, when the FOP's leaders called this problem to my attention, they also suggested a simple solution, let the police officers and firefighters choose for themselves the retirement system which best meets their needs.

I rise today to offer legislation that will provide retirement stability to our public safety officers by allowing Kentucky to operate what is known as a ''divided retirement system.''

With passage of my legislation and legislation already passed by the Kentucky General Assembly, Louisville's and Jefferson County's police officers would decide whether or not they want to participate in Social Security or remain in their traditional retirement plan. While future employees will be automatically enrolled in Social Security, no current officers would be forced into a new retirement system as a result of the merger without their approval.

Current Federal law allows twenty-one States the option of offering divided retirement systems. Unfortunately, Kentucky is not one of these twenty-one states. The legislation I am offering today would change that by adding Kentucky to list of states designated in the Social Security Act.

The language I introduce today was included in legislation, H.R. 4070, that passed both the House and the Senate in the 107th Congress. Unfortunately, there were differences in the House and Senate versions of H.R. 4070, unrelated to the Louisville language, that were resolved only shortly prior to the adjournment of the 107th Congress. Unfortunately, the 107th Congress adjourned *sine die* before this compromise version of H.R. 4070 could be considered by both bodies of Congress.

It is critical that the Senate provide this retirement stability to the brave men and women who protect the citizens of Louisville and Jefferson County everyday. There is extensive precedent for granting Kentucky this authority, and my legislation enjoys the broad, bipartisan support of policemen, firefighters, local and state officials, and the Social Security Administration.

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. 37

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

SECTION 1. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 39. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine to introduce legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the Nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

The cost of health care in Wisconsin is skyrocketing: A recent survey found that the cost of health benefits for employees in Wisconsin rose 14.8 percent this year, to an average of $6,940 per employee. That's 20 percent higher than the national average of $5,758 for workers in businesses with 500 or more employees.

We must curb these rapidly-increasing health care premiums. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees' health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health care premiums for their employees. According to the National Business Coalition on Health, there are more than 90 employer-led coalitions across the United States that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 7,000 employers and approximately 34 million employees Nationwide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of quality health care, we will be able to lower long term health care costs. Effective care, such as quality preventive services, can reduce overall health care expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to health care are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally. Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 12 surrounding counties on behalf of its 170 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their 110,000 employees and dependents.

This legislation seeks to build on successful local initiatives, such as the Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to a group of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and others. By pooling their experience and interests, employers involved in a coalition could better attack the essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing.

Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better quality insurance plans and negotiate better rates.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pools by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pool are also given flexibility to find innovative ways to lower costs, such as enhancing benefits, for example, more preventive care, and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in cosponsoring this proposal to improve the quality and costs of health care.

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

S. 40. A bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce the Quality Cheese Act of 2003. This legislation will protect the consumer, save taxpayer dollars and provide support to America's dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese. But the Food and Drug Administration, FDA, and the U.S. Department of Agriculture, USDA, may change current law, and consumers won't know whether cheese is really all natural or not.

If the Federal Government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, some cheese labels saying ''domestic'' and ''natural'' will no longer be truly accurate.

If USDA and FDA allow a change in Federal rules, imitation milk proteins known as milk protein concentrate, casein, or dry ultra filtered milk could be used to make cheese in place of the wholesome natural milk produced by cows in Wisconsin or other part of the U.S.

I am deeply concerned by recent efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein into natural cheese products flies in the face of logic and could create a loophole that could allow unlimited amounts of substandard imported milk proteins to enter U.S. cheese vats.

My legislation would close this loophole and ensure that consumers could be confident that they were buying natural cheese when they saw the natural label.

Over the past decade, cheese consumption has risen at a strong pace due in part to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

Recent proposals to change to our natural cheese standards, however, could decrease consumption of natural cheese. These declines could result from concerns about the origin of casein and milk protein concentrate.

The addition of this kind of milk could significantly tarnish the wholesome reputation of natural cheese in the eyes of the consumer.

This change could seriously compromise decades of work by America's dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America's farmers!

Consumers have a right to know if the cheese that they buy is unnatural. And by allowing milk protein concentrate milk into cheese, we are denying consumers the entire picture.

This legislation will require that labels paint the entire picture for the consumer, and allow them enough information to select cheese made from truly natural ingredients.

Allowing MPCs or dry ultra-filtered milk into natural cheeses would also harm dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer. If we allow MPCs to be used in cheese, we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily-subsidized products would displace natural domestic dairy ingredients.

These unnatural domestic dairy products would enter our domestic cheese market and might further depress dairy prices paid to American dairy producers. Low dairy prices result in increased costs to the dairy price support program. So, at the same time that U.S. dairy farmers would receive lower prices, the U.S. taxpayer would pay more for the dairy price support program.

This change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

It would benefit only unscrupulous foreign MPC producers out to make a fast buck at the expense of Americans.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk from being included in America's natural cheese standard.

Congress must shut the door on any backdoor efforts to stack the deck against America's dairy farmers. And we must pass my legislation that prevents a loophole that would allow changes that hurt the consumer, taxpayer, and dairy farmer.

By Mr. LIEBERMAN (for himself and Mr. DASCHLE)

S. 41. A bill to strike certain provisions of the Homeland Security Act of 2002 (Public Law 107–296), and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce a bill on behalf of myself and Senator DASCHLE to remedy some problems in landmark legislation passed at the end of the last Congress, and signed into law by President Bush, to establish a Department of Homeland Security. The legislation we are offering today would strike seven extraneous special interest provisions inserted into the Homeland Security Act by Republican leadership in the bill's waning hours, provisions that are contrary to the bipartisan spirit in which the Homeland Security Act was conceived.

Since the days following September 11, 2001, when terrorists viciously took the lives of 3,000 of our friends, family and fellow Americans, I have advocated establishing a Department of Homeland Security to beat the terrorist threat. Senator ARLEN SPECTER, and I initially proposed creating a new department in October 2001. Our measure was not just bipartisan. It was in fact intended to be nonpartisan.

Unfortunately, some partisan battles did ensue, primarily regarding longstanding civil service protections for homeland security workers, and I remain very concerned about the potential impact of these provisions. Nevertheless, the final bill was, for the most part, a critical, well-constructed piece of legislation that incorporated the majority of the provisions approved by the Governmental Affairs Committee, and which an overwhelming majority of the Senate embraced.

In some very specific ways, however, the bill was flawed. In the final stages of passing the bill, the Republican leadership hastily inserted several special interest provisions that had no place in this measure. Most of these provisions had never been in any version of the legislation before the Senate before they were presented in a take-it-or-leave-it package by Republicans, and several had not been considered by either chamber. The method and spirit in which these provisions found their way into what should have been a consensus piece of legislation was utterly objectionable and Senator DASCHLE and I made an effort to remove them at the time. That effort narrowly failed, but not before news of these special interest provisions had created great consternation for Democrats and the public, and even for some Republicans. Indeed, according to numerous published reports, the Republican leadership was able to muster the votes to preserve the provisions only after promising to revisit at least some of the most egregious additions during this session of Congress.

I believe that the seven extraneous provisions my legislation targets hurt the Homeland Security Act as it was finally passed by the Congress and signed by the President. And I believe that, by attaching these measures to what could have and should have been a common cause, the Republican leadership all but admitted that the provisions cannot withstand independent scrutiny. Following are the provisions my bill would strike.

First, perhaps the most egregious add-on to the Homeland Security Act

was a provision that dramatically alters the way certain vaccine preservatives are treated for liability purposes under the law. To quickly summarize this very complicated issue, children who are hurt by childhood vaccines generally may not go directly to court to hold vaccine manufacturers liable. Instead, they have to go first to what's called the Federal Vaccine Injury Compensation Program, which offers compensation for some of these claims. Parents argued, however, that the bar on lawsuits didn't use to apply to claims regarding faulty vaccine additives.

These seemingly arcane legal distinctions were particularly important to a large number of parents of autistic children who have attributed their children's autism to thimerosal, a mercury-based preservative that used to be in some childhood vaccines. These parents sued the manufacturers of both vaccines and thimerosal, and they had many lawsuits pending in the courts as of last Fall.

If you are wondering what any of this has to do with Homeland Security, you are doing exactly what we all did last November when in the waning days of debate on the Homeland Security bill, a provision addressing this issue appeared for the very first time in any version of the bill. That provision fundamentally altered the way vaccine additive claims would be treated from then on. With the swoop of a pen, the pending additive lawsuits against both vaccine and additive manufacturers were thrown out of court and, the provision's supporters alleged, sent into the compensation fund.

As I said last Fall, I don't know whether there is any relationship between thimerosal and autism. I also don't know whether these cases really should be resolved in court or through the compensation fund. But I do know that figuring out where and how to resolve these claims is a very contentious, complex and challenging task, and is just one part of addressing broader problems with the vaccine compensation system. For example, the vaccine compensation fund's viability may be affected by the addition of claims regarding these additives. I also know that it is an issue that the committees of jurisdiction had been struggling with for a long time and that they should have been left to resolve. And I certainly know that a last second addition to the Homeland Security Act was absolutely the wrong way to deal with this issue and the wrong bill to use to take so many injured parents' and children's legal rights away. Indeed, we know that even more now, as it has become clear that while the provision closed the courthouse door to autistic children, it apparently didn't open the compensation fund window as its supporters said it would—because it didn't make the changes to either the fund's statute of limitations or to governing tax code provisions that would be necessary to obtain access to the fund for these cases.

The bottom line is that this was a wrong and poorly conceived provision to put in the Homeland Security bill—something I thought even the Republican leadership acknowledged when they were forced to make promises to get rid of this provision in order to save their bill. We should scrap it now, and let the committee of jurisdiction undertake a careful review and, I hope, get it right this time.

My legislation would also strike from the Act a measure that requires the Transportation Security Oversight Board to ratify within 90 days emergency security regulations issued by the Transportation Security Agency. If the oversight board does not ratify the regulations, they would automatically lapse. Despite the TSA having decided that they are necessary, 90 days later, lacking the board's approval, they'd disappear.

This doesn't make any sense. In the current climate, shouldn't we be trying to find new ways to expedite and implement TSA rules, not always to disrupt and derail them? This provision is contrary to new procedures that the Senate passed in 2001 in the aviation security bill. Under that law, regulations go into effect and remain in effect unless they are affirmatively disapproved by the Board. I think that's a better system.

Another provision would extend liability protection to companies that provided passenger and baggage screening in airports on September 11.

But we in the Senate decided against extending such liability protection in at least two different contexts. First, the airline bailout bill limited the liability of the airlines, but not of the security screeners, due to ongoing concerns about their role leading up to September 11. Then, the conference report on the Transportation Security bill extended the liability limitations to others who might have been the target of lawsuits, such as aircraft manufacturers and airport operators, but again not to the baggage and passenger screeners.

Like that little mole you hit with the mallet in a whack-a-mole game, somehow this provision reappeared in the Homeland Security Act. We must strike it.

Another unnecessary and overreaching provision I seek to strike gives the Secretary of the new department broad authority to designate certain technologies as so-called ''qualified antiterrorism technologies.'' His granting of this designation, which appears to be unilateral, and probably not subject to review by anyone, would entitle companies selling that technology to broad liability protection from any claim arising out of, relating to, or resulting from an act of terrorism, no matter how negligently, or even wantonly and willfully, the company acted.

This provision seems to say that in many cases, the plaintiff can't recover anything from the seller unless an injured plaintiff can prove that the seller of the product that injured him or her acted fraudulently or with willful misconduct in submitting information to the Secretary when the Secretary was deciding whether to certify the product.

Even in cases where a seller isn't entitled to the benefit of that protection, the company still isn't fully, or in many cases even partially, responsible for its actions, even if it knew there was something terribly wrong with its product. Perhaps worst of all, this measure caps the seller's liability at the limits of its insurance policy. In other words, if injured people were lucky enough to get through the first hurdle and even hold a faulty seller liable, they still could go completely uncompensated even if a liable seller has more than enough money to compensate them.

The Homeland Security Act unwisely and unnecessarily allows the Secretary to exempt the new department's advisory committees from the open meetings requirements and other requirements of the Federal Advisory Committee Act, FACA.

Agencies throughout government make use of advisory committees that function under these open meetings requirements. Existing law is careful to protect discussions and documents that involve sensitive information, in fact, the FACA law currently applies successfully to the Department of Defense, the Department of Justice, the State Department, even the secretive National Security Agency.

So why should the Department of Homeland Security be allowed to exempt its advisory committees from its requirements? Why should its advisory committees be allowed to meet in total secret with no public knowledge?

We all say that we're for ''good government,'' for openness, integrity, and accountability. But as it now stands, few of us will be able to say with confidence that the new department's advisory committees are designed to be as independent, balanced, and transparent as possible. I know full well that the Homeland Security Department will deal with sensitive information involving life and death, but so does the National Security Agency. So does the FBI. So does the Department of Defense. Their advisory committees aren't allowed to hide themselves away from the public.

Finally, our legislation would alter a provision in the Act creating a university-based homeland security research center. Now, I have nothing against creating a university research center focused on homeland security.

But there's a problem with this particular provision as it is written. The research center that it would create is described so narrowly, through 15 specific criteria, that it appears Texas A&M University has the inside track, to say the least, to get the funding and house the center.

Science in this country has thrived over the years because, by and large,

Congress has refused to intervene in science decisions. Science has thrived through peer review and competition over the best proposals—which are fundamentals of federal science policy. We are violating them here. This is nothing short of ''science pork.''

When it comes to making these research funding decisions, we need a playing field that's truly level, not one that only looks level when you tilt your head.

Our legislation keeps the university-based science center program. However, it removes the highly-specific criteria that appear to direct it to a particular university. That's the way we'll get the best science, not by making Congressional allocations to particular institutions.

I'm extremely pleased we have created a Department of Homeland Security and plan to do everything I can to help ensure its success. But these flaws are real. They are serious. And they are utterly unnecessary. 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. 41

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

SECTION 1. AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.

(a) STRICKEN PROVISIONS.—

(1) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(A) in section 308(b)(2) by striking subparagraph (B) and inserting the following:

''(B) CRITERIA FOR SELECTION.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.'';

(B) in section 311—

(i) by striking subsection (i); and

(ii) redesignating subsection (j) as subsection (i);

(C) in title VIII, by striking subtitle G;

(D) by striking section 871;

(E) by striking section 890;

(F) by striking section 1707; and

(G) by striking sections 1714, 1715, 1716, and 1717.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking the items relating to subtitle G of title VIII, and sections 871, 890, 1707, 1714, 1715, 1716, and 1717.

(b) ADVISORY GROUPS.—Section 232(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking paragraph (2) and inserting the following:

''(2) To establish and maintain advisory groups to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.''.

(c) WAIVERS RELATING TO CONTRACTS WITH CORPORATE EXPATRIATES.—Section 835 of the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking subsection (d) and inserting the following:

''(d) WAIVERS.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security.''.

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect as though enacted as part of the Homeland Security Act of 2002 (Public Law 107–296).

By Mr. FEINGOLD:

S. 42. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which could serve as a first step towards eliminating the inequities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system.

The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a higher price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

My legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it. Under the current archaic law, the price for fluid milk increases depending on the distance from Eau Claire, Wisconsin, even though most local milk markets do not receive any milk from Wisconsin.

The bill I introduce today would prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Finally, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This one change is so crucial to Upper Midwest producers, because the current system has penalized them for many years. The current system provides disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production. As a result, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995 some regions of the U.S., notably the Central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk prices have generated so much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market-distorting effects of the fluid price differentials in Federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $669 million over five years. Government outlays would fall, CBO concludes, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions that would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses show that farm revenues in a market undisturbed by Federal orders would actually increase in the Upper Midwest and fall in most other milk-producing regions.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough fluid milk to meet their own needs.

That is no longer the case. The Upper Midwest is not the primary source of reserve supplies of milk. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, and specifically California, which now leads the Nation in milk production.

The result of this antiquated system has been a decline in the Upper Midwest dairy industry, not because it can't produce a product that can compete in the market place, but because the system discriminates against it. Today, Wisconsin loses dairy farmers at a rate of more than 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate

of the region. Other regions with higher fluid milk prices are growing rapidly.

In an free market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

I urge my colleagues to do the right thing and bring reform to this out dated system and work to eliminate the inequities in the current milk marketing order pricing system.

By Mr. FEINGOLD:

S. 43. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition and Forestry.

Mr. FEINGOLD. Mr. President, I rise to re-introduce a measure that will begin to restore democracy for dairy farmers throughout the Nation.

When dairy farmers across the country voted on a referendum four years ago, perhaps the most significant change in dairy policy in sixty years, they didn't actually get to vote. Instead, their dairy marketing cooperatives cast their votes for them.

This procedure is called ''bloc voting'' and it is used all the time. Basically, a Cooperative's Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. It may serve the interest of time, but not always in the interest of their producer owner-members.

I do think that bloc voting can be a useful tool in some circumstances, but I have serious concerns about its use in every circumstance. Farmers in Wisconsin and in other states tell me that they do not agree with their Cooperative's view on every vote. Yet, they have no way to preserve their right to make their single vote count.

After speaking to farmers and officials at USDA, I have learned that if a Cooperative bloc votes, individual members simply have no opportunity to voice opinions separately. That seems unfair when you consider what significant issues may be at stake. Coops and their members do not always have identical interests. We shouldn't ask farmers to ignore that fact.

The Democracy for Dairy Producers Act of 2003 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot if one or two or ten or all of the members chose to vote on their own.

This will in no way slow down the process at USDA; implementation of any rule or regulation would proceed on schedule. Also, I do not expect that this would often change the final outcome of any given vote. Coops could still cast votes for their members who do not exercise their right to vote individually. And to the extent that coops represent farmers interest, farmers are likely to vote along with the coops, but whether they join the coops or not, farmers deserve the right to vote according to their own views.

I urge my colleagues to return the democratic process to America's farmers, by supporting the Democracy for Dairy Producers Act.

By Mr. FEINGOLD (for himself and Ms. CANTWELL):

S. 44. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation to eliminate from the Federal Tax Code percentage depletion allowances for hardrock minerals mined on Federal public lands. I am pleased that the Senator from Washington, Ms. CANTWELL, is joining me as an original cosponsor.

President Clinton proposed the elimination of the percentage depletion allowance on public lands in his FY 2001 budget. President Clinton's FY 2001 budget estimated that, under this legislation, income to the Federal treasury from the elimination of percentage depletion allowances for hardrock mining on public lands would total $487 million over 5 years and $1.20 billion over 10 years. The Joint Committee on Taxation estimated that it would save $410 million over 5 years and $823 million over 10 years. These savings are calculated as the excess amount of Federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. Percentage depletion allowances are contained in the tax code for extracted fuel, minerals, metal and other mined commodities. These allowances have a combined value, according to estimates by the Joint Committee on Taxation, of $4.8 billion.

These percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That's right, these allowances were initiated nearly one hundred years ago. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the Tax Code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration and output. Percentage depletion also makes it possible, however, to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of its capital investment: cost depletion, and percentage depletion. Cost depletion allows for the recovery of the actual capital investment, the costs of discovering, purchasing, and developing a mineral reserve, over the period during which the reserve produces income. Using cost depletion, a company would deduct a portion of its original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

Under percentage depletion, however, the deduction for recovery of a company's investment is a fixed percentage of ''gross income,'' namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 to 22 percent.

In addition to repealing the percentage depletion allowances for minerals mined on public lands, my bill would also create a new fund, called the Abandoned Mine Reclamation Fund. One fourth of the revenue raised by the bill, or approximately $120 million dollars, would be deposited into an interest bearing fund in the Treasury to be used to clean up abandoned hardrock mines in states that are subject to the 1872 Mining Law. The Mineral Policy Center estimates that there are 557,650 abandoned hardrock mine sites nationwide and the cost of clearing them up will range from $32.7 billion to $71.5 billion.

There are currently no comprehensive Federal or State programs to address the need to clean up old mine sites. Reclaiming these sites requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

In today's budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are adding to the nation's environmental and financial burdens. We face serious budget choices this fiscal year, yet these subsidies remain persistent tax expenditures that raise the deficit for all citizens or shift a greater tax burden to

other taxpayers to compensate for the special tax breaks provided to the mining industry.

The measure I am introducing is fairly straightforward. It eliminates the percentage depletion allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time, there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with depreciation rates given to other businesses.

The time has come for the Federal Government to get out of the business of subsidizing one business over another. We can no longer afford its costs in dollars or its cost to the health of our citizens. This legislation is one step toward the goal of ending these corporate welfare subsidies.

I ask unanimous consent 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. 44

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2003''.

SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting ''(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)'' after ''In the case of the mines''.

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term ''general mining laws'' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

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

SEC. 3. ABANDONED MINE RECLAMATION FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

''SEC. 9511. ABANDONED MINE RECLAMATION FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Abandoned Mine Reclamation Trust Fund' (in this section referred to as 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to 25 percent of the additional revenues received in the Treasury by reason of the amendments made by section 2 of the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2003.

''(c) EXPENDITURES FROM TRUST FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, to the Secretary of the Interior for—

''(ii) for which the Secretary of the Interior makes a determination that there is no continuing reclamation responsibility under State or Federal law, and

''(iii) for which it can be established to the satisfaction of the Secretary of the Interior that such lands or resources do not contain minerals which could economically be extracted through remining of such lands or resources.

''(B) CERTAIN SITES AND AREAS EXCLUDED.—The lands and water resources described in this paragraph shall not include sites and areas which are designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.) or which are listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

''(3) GENERAL MINING LAWS.—For purposes of paragraph (2), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 9511. Abandoned Mine Reclamation Trust Fund.''.

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 45. A bill to make changes to the Office for State and Local Government Coordination, Department of Homeland Security; to the Committee on Governmental Affairs.

Mr. FEINGOLD. Mr. President I rise today with my colleague from Maine to introduce legislation to help first responders do what they do so well, protect our communities in an emergency.

The Department of Homeland Security will create a massive shift in the Federal Government. Nobody will feel the impact of this shift more than the brave men and women who work in law enforcement, as firefighters, as rescue workers, as emergency medical service providers, and in capacities as first responders.

We must make sure that these first responders have the resources that they need.

While I commend the Administration for raising the funding dedicated to first responders in the President's budget, I am concerned that new layers of bureaucracy and reorganization could reduce these funding levels, or just as harmful, put up barriers to first responders actually receiving these funds.

The Federal agencies in the proposed Department of Homeland Security must listen to the priorities of our communities. After all, the needs of first responders vary between regions, as well as between rural and urban communities. In Wisconsin, I have heard needs ranging from training to equipment to more emergency personnel in the field, just to name a few.

My legislation would promote effective coordination among Federal agencies under the Department of Homeland Security and ensure that our first responders, our firefighters, law enforcement, rescue, and EMS providers, can help Federal agencies and the new Department of Homeland Security to improve existing programs and future initiatives.

It would first establish a Federal Liaison on Homeland Security in each state and coordinate between the Department of Homeland Security and state and local first responders.

This office would serve not only as an avenue to exchange ideas, but also as a resource to ensure that the funding and programs are effective.

For example, my hope is that the Homeland Security Department will make programs such as the Fire Act a high priority. The Fire Act provides grants directly to fire departments across our nation for training and equipment needs. I recently visited one excellent example of this program in West Allis, Wisconsin, where the Department received a grant in 2001 to implement a wellness and fitness program for their firefighters. I am told that it is one of the first departments in the State to meet the goals of this program, and I commend the department for its efforts.

My legislation would also direct the agencies within the Department of Homeland Security to coordinate and prioritize their activities that support first responders, and at the same time, ensure effective use of taxpayer dollars.

As part of this coordination, the First Responders Support Act establishes a new advisory committee of those in the first responder community to identify and streamline effective programs.

Last year, both the original Senate and House homeland security bills lacked the provisions needed to ensure that the new Department of Homeland Security communicates and coordinates effectively with first responders.

During the Senate Governmental Affairs Committee mark-up of the Homeland Security bill, the Committee added our First Responders Support Act to the legislation. They did so knowing that we would have to reconcile the overlap between our legislation and the language in the Chairman's mark creating an office for state and local government coordination. Our amendment, which was approved by the full Senate, did just that. Unfortunately, our proposal was dropped from the final bill during backroom negotiations.

Because of this omission, I promised to make enacting this legislation one of our top priorities this Congress. That's why we are re-introducing this legislation today.

We must be aggressive in seeking the advice of our first responders, and helping them get the resources that they need to provide effective services. They are on the front lines, and deserve our strong support.

In almost any disaster, the local first responders and health care providers play an indispensable role. If the Department of Homeland Security is to be effective, we need to ensure that the resources are delivered to the front line personnel in an effective and coordinated manner. I urge my colleagues to join me in cosponsoring this proposal and support our first responders.

By Mr. FEINGOLD (for himself, Mr. KOHL, and Mr. WYDEN):

S. 47. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation that would terminate the operation of the Navy's Extremely Low Frequency communications system, Project ELF, which is located in Clam Lake, WI, and Republic, MI.

I would like to thank the senior Senator from Wisconsin, Mr. KOHL, and the Senator from Oregon, Mr. WYDEN, for cosponsoring this bill.

Project ELF is a Cold War relic that was designed to send short one-way messages to ballistic and attack submarines that are submerged in deep waters. The bill that I am introducing today would terminate operations at Project ELF, while maintaining the infrastructure in Wisconsin and Michigan in the event that a resumption in operations becomes necessary.

Project ELF is ineffective and unnecessary in the post-Cold War era. This antiquated system does not facilitate the rapid mobilization that our military says it needs to respond to current threats from weapons of mass destruction. The horrific attacks of September 11, 2001, emphasized the need for rapid, reliable two-way communications. Since ELF cannot transmit detailed messages, it serves as an expensive ''beeper'' system to tell submarines to come to the surface to receive messages from other sources, and the subs cannot send a return message to ELF in the event of an emergency. It takes ELF four minutes to send a three-letter message to a deeply submerged submarine.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Our submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency, VLF, radio waves or lengthier messages through satellite systems. Taxpayers should not be asked to continue to pay for what amounts to a beeper system that tells our submarines to come to the surface to receive orders from another, more sophisticated source.

Further, continued operation of this facility is opposed by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF. I have introduced legislation during each Congress since taking office in 1993 to terminate it, and I have recommended it for closure to the Base Realignment and Closure Commission.

Project ELF has had a turbulent history. Since the idea for ELF was first proposed in 1958, the project has been changed or canceled several times. Residents of Wisconsin have opposed ELF since its inception, but for years we were told that the national security considerations of the Cold War outweighed our concerns about this installation in our State. Ironically, this system became fully operational in 1989, the same year the tide of democracy began to sweep across Eastern Europe and the Soviet Union. Now, fourteen years later, the hammer and sickle has fallen and the Russian submarine fleet is in disarray. But Project ELF still remains as a constant, expensive reminder to the people of my State that many at the Department of Defense remain focused on the past.

There also continue to be a number of public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. District Court ordered that ELF be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

Numerous medical studies point to a possible link between exposure to extremely low frequency electromagnetic fields and a variety of human health effects and abnormalities in both animal and plant species.

In 1999, after six years of research, the National Institute of Environmental Health Sciences released a report that did not prove conclusively a link between electromagnetic fields and cancer, but the report did not disprove it, either. Serious questions remain, and many of my constituents are rightly concerned about this issue.

In addition, I have heard from a number of dairy farmers who are convinced that the stray voltage associated with ELF transmitters has demonstrably reduced milk production. As we continue our efforts to return to a sustainable balanced federal budget, and as the Department of Defense continues to struggle to address readiness and other concerns, it is clear that outdated programs such as Project ELF should be closed down.

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

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

S. 47

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

SECTION 1. TERMINATION OF OPERATION OF EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) TERMINATION REQUIRED.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) MAINTENANCE OF INFRASTRUCTURE.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

By Mr. FEINGOLD:

S. 48. A bill to repeal the provisions of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic cost-of-living adjustments for Congressional pay.

As my Colleagues are aware, it is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the record.

Regrettably, current law permits Members to avoid such an open procedure. All that is necessary for Congress to get a pay raise is that nothing be done to stop it. Unless Congress affirmatively acts, the annual pay raise takes effect.

This stealth pay raise technique began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation.

On occasion, Congress has voted to deny itself the raise. Traditionally, this has been done on the Treasury-Postal appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. In one instance, the Treasury-Postal bill was slipped into the conference report on the Legislative Branch appropriations bill, and thus completely shielded from amendment. And during 2002, the Senate did not consider the Treasury-Postal bill at all.

This makes getting a vote on the annual congressional pay raise a haphazard affair at best. And it should not be that way. No one should have to force a debate and public vote on the pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

The question of how and whether Members of Congress can raise their own pay was one that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated

by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. Almost 214 years ago, on September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

The 27th Amendment to the Constitution now states: 'No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I try to honor that limitation in my own practices. In my own case, throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The stealth pay raises like the one that Congress allowed last year, at a minimum, certainly violate the spirit of that amendment.

This practice must end. To address it, I am reintroducing this bill to end the automatic cost-of-living adjustment for Congressional pay. Senators and Congressmen should have to vote up-or-down to raise Congressional pay. My bill would simply require us to vote in the open. We owe our constituents no less.

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. 48

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

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2005.

By Mr. FEINGOLD:

S. 49. A bill to reduce the deficit of the United States; to the Committee on Energy and Natural Resources.

Mr. FEINGOLD. Mr. President, today I am introducing a measure aimed at curbing wasteful spending. In the face of our return to Federal deficits, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The measure that I introduce today eliminates or modifies three Federal programs: it establishes a means test for large agribusinesses receiving subsidized water from the Bureau of Reclamation, it terminates the Uniformed Services University of the Health Sciences, USUHS, a medical school run by the Department of Defense, and it ends the future production of submarine launched D5 missiles, commonly known as the Trident II missiles. Eliminating or reforming these three programs would save the taxpayers in excess of $8 billion over ten years.

The irrigation means test provision is drawn from legislation that I that have sponsored in previous Congresses to reduce the amount of Federal irrigation subsidies received by large agribusiness interests. I believe that reforming Federal water pricing policy by reducing subsidies is important as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms, those no larger than 160 acres, a chance, with a helping hand from the Federal Government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the Federal Government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Agribusinesses, and other project beneficiaries, are required under the law to repay to the Federal Government their allocated share of the costs of constructing these projects.

As a result of the subsidized financing provided by the Federal Government, however, some of the beneficiaries of Federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, agribusinesses generally receive the largest amount of Federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of Federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share, $7.1 billion, is allocated to irrigation interests. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by agribusinesses to other users of the water projects for repayment.

There are several reasons why large agribusinesses continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which Federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement.

Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving Federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

The Department of the Interior has acknowledged that these trusts do exist. Interior published a final rulemaking in 1998 to require farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities to submit RRA forms to the district(s) where such land is located. Water districts are now required to provide specific information about farm operators to Interior annually. This information is an important step toward enforcing the legislation that I am reintroducing today.

My legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means-test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on its most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would

be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million dollars, a ratio of $500,000, the means-test value, divided by its gross income would determine the full cost rate. Thus the water user would pay the full cost rate on half of their acreage and the below-cost rate on the remaining half.

This means-testing proposal was featured in the 2000 Green Scissors report. This report is compiled annually by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. The Green Scissors recommendation on means-testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10 percent of farms, then the Federal Government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over five years.

When countless Federal programs are subjected to various types of means-tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard-earned tax dollars are being expended to assist large corporate interests in select regions of the country, particularly in tight budgetary times.

The second element of my bill will help our Armed Services obtain physician services at a more reasonable cost by terminating the Uniformed Services University of the Health Sciences, USUHS. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82-point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office, CBO, project that terminating the school would save $273 million over the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994, according to CBO. This contrasts dramatically with the military's scholarship program, which provided over 80 percent of the military's new physicians in that year.

What is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO has noted, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The House of Representatives has voted to terminate this program on several occasions, joining others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

The real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS provides only a small fraction of the military's new physicians, relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5 percent, were USUHS trained.

USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the Federal Government cannot afford to continue every program that provides some useful function, especially when such services can be procured elsewhere.

The final provision of my legislation terminates another wasteful defense program, the continued production of new Trident II submarine-launched ballistic missiles. Trident submarines, and the deadly submarine-launched ballistic missiles they carry, were designed specifically to attack targets inside the Soviet Union from waters off the continental United States.

Let me say at the outset that this provision would in no way prevent the Navy from maintaining the current arsenal of Trident II missiles. Nor would it affect those Trident II missiles that are currently in production.

The Navy currently has ten Trident II submarines, each of which carries 24 Trident II, D5, missiles. Each of these missiles contains eight independently targetable nuclear warheads, for a total of 192 warheads per submarine. Each warhead packs between 300 to 450 kilotons of explosive power.

By way of comparison, the first atomic bomb that the United States dropped on Hiroshima generated 15 kilotons of force. Let's do the math for just one fully-equipped Trident II submarine. Each warhead can generate up to 450 kilotons of force. Each missile has eight warheads, and each submarine has 24 missiles. That equals 86.4 megatons of force per submarine. That means that each Trident II submarine carries the power to deliver devastation which is the equivalent of 5,760 Hiroshimas.

And that is just one fully equipped submarine. As I noted earlier, the Navy currently has ten such submarines.

Through fiscal year 2003, the Navy will have been authorized to purchase 408 Trident II missiles for these submarines. Even taking into account the 86 Trident II missiles that have been expended in testing through calendar year 2002, the Navy will still have 322 missiles in stock once those authorized to be purchased during FY2003 are completed.

The Navy needs 240 missiles to fully equip ten Trident II submarines with 24 missiles each. That leaves 82 ''extra'' missiles in the Navy's inventory. And the Navy still plans to buy at least 132 more missiles over the next two years, for a total purchase of 540 missiles. My bill would terminate production of these missiles after the currently authorized 408, saving taxpayers $6.6 billion over the next ten years.

The tragic events of September 11, 2001, and the recent resumption of nuclear activities by North Korea, serve as chilling reminders that there is still a potential threat from rogue states, and from independent operators such as al-Qaeda, who seek to acquire ballistic missiles and other weapons of mass destruction. I also recognize that our submarine fleet and our arsenal of strategic nuclear weapons still have an important role to play in warding off these threats. Their role, however, has diminished dramatically from what it was at the height of the Cold War. Our missile procurement decisions should reflect that change and should reflect the realities of the post-Cold War world.

Our current ballistic missile capability is far superior to that of any other county on the globe. And the capability of the Russian military, the very force which these missiles were designed to counter, is seriously degraded.

We should not be buying more Trident II missiles at a time when the governments of the United States and Russia have signed the Moscow Treaty, which calls for deep reductions in our nuclear forces. To spend scarce resources on building more missiles now

is short-sighted and could seriously undermine our efforts to negotiate further arms reductions with Russia.

In conclusion, the time has come to rethink our Federal budget priorities, and to redirect needed funds appropriately. Eliminating or reforming these three programs will go a long way to doing just that, and I urge Congress to act swiftly to save money for the taxpayers. I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 49

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 'Deficit Reduction Act of 2003'.

TITLE I—REFORMED BUREAU OF RECLAMATION WATER PRICING

SECTION 101. SHORT TITLE.

This Act may be cited as the 'Irrigation Subsidy Reduction Act of 2001'.

SEC. 102. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to small farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 103. AMENDMENTS.

(a) DEFINITIONS—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking 'owned or operated under a lease which' and inserting 'that is owned, leased, or operated by an individual or legal entity and that';

(3) by inserting after paragraph (6) the following:

'(7) LEGAL ENTITY—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

''(8) OPERATOR—

''(A) IN GENERAL—The term 'operator'—

''(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcel) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

''(ii) if the individual or legal entity—

''(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

''(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

''(B) OPERATION OF A FARM OPERATION—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water.'; and

(4) by adding at the end the following:

''(14) SINGLE FARM OPERATION—

''(A) IN GENERAL—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

''(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION—

''(i) EQUIPMENT—AND LABOR-SHARING ACTIVITIES—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

''(ii) PERFORMANCE OF CERTAIN SERVICES—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.'.

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

''SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

''(a) IN GENERAL—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

''(b) SHARED DECISIONMAKING AND SUPERVISION—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

''(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

''(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1);

(c) PRICING—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

''(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

''(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

''(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

''(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

''(3) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2002 shall be equal to the product of—

''(i) $500,000, multiplied by

''(ii) the inflation adjustment factor for the taxable year.

''(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 2002. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

''(C) GDP IMPLICIT PRICE DEFLATOR.—For purposes of subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

''(D) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.''.

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

''SEC. 206. CERTIFICATION OF COMPLIANCE.

''(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

''(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

''(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

''(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.''.

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking ''(c) The Secretary'' and inserting the following:

''(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

''(1) REGULATIONS; DATA COLLECTION.—The Secretary''; and

(B) by adding at the end the following:

''(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulations issued under this Act.''.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: ''The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).''.

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting ''operator or'' before ''contracting entity'' each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 220 as sections 230 and 231; and

(2) by inserting after section 228 the following:

''SEC. 229. MEMORANDUM OF UNDERSTANDING.

''The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1996, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.''.

TITLE II—TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES. SECTION 201. TERMINATION.

(a) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(b) CONFORMING AMENDMENTS.—

(1) Chapter 104 of title 10, United States Code, is repealed.

(2) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(C) EFFECTIVE DATES.—

(1) TERMINATION.—The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the graduation from the university of the last class of students that enrolled in such university on or before the date of the enactment of the Act.

(2) AMENDMENTS.—The amendments made by subsection (a)(2) shall take effect on that date of the enactment of this Act, except that the provisions of chapter 104 of title 10, United States Code, as in effect on the day before such date, shall continue to apply with respect to the Uniformed Services University of the Health Sciences until the termination of the university under this section.

TITLE III—TERMINATION OF PRODUCTION UNDER THE D5 SUBMARINE LAUNCHED MISSILE PROGRAM.

SECTION 301. PRODUCTION TERMINATION.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate production of D5 submarine-launched ballistic missile program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available on or after the date of the enactment of this Act for obligation for the D5 submarine-launched ballistic missile program may be obligated for production under that program only for payment of the costs associated with the termination of production under this Act.

SEC. 302. CURRENT PROGRAM ACTIVITIES.

Nothing in this legislation shall be construed to prohibit or otherwise affect the availability of funds for the following:

(1) Production of D5 submarine-launched ballistic missiles in production on the date of the enactment of this Act.

(2) Maintenance after the date of the enactment of this act of the arsenal of D5 submarine-launched ballistic missiles in existence on such date, including the missiles described in paragraph (1).

By Mr. WYDEN:

S. 52. A bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, predictions that the Internet Tax Freedom Act would topple Western Civilization have not come to pass. Since the moratorium on taxation of out-of-State, online sales was first enacted in October 1998, not a single community, county or state has come forward to prove it is being injured by its inability to impose discriminatory taxes on electronic commerce. There is simply no evidence that States have lost revenue by technology-driven commerce. On the contrary, the technology sector itself has been pounded as hard as any sector by the economic downturn.

Across the country States are facing tremendous budget pressures. My own State of Oregon is facing a nearly 20 percent budget shortfall, and Oregon has the highest unemployment rate in the Nation. The shift from black ink to red is the result of this Administration's failed economic policies, not the inability of States to impose discriminatory taxes on Internet sales.

Adding new taxes on the backs of consumers is not the way to salvage weakened State and local economies. Sales taxes are among the most regressive revenue measures, and imposing new sales taxes at this time could actually make a bad economic situation worse. A number of States seem to be arguing that their economic future is tied to taxing technology entrepreneurs located thousands of miles away with no physical presence in their jurisdiction. I don't share this view. The reason States don't tax remote sellers, as former Massachusetts Governor Celluci has testified before the Senate, is they don't want the political heat. Few of the 45 States that could collect a use tax on all items their residents have purchased out-of-State actually do so. Most States simply chose not to enforce their own laws, preferring to export their tax burden to out of state businesses who get no benefit from the taxing state.

Congress will soon be asked again by the Streamlined Sales Tax Project States to take the political heat for new sales taxes. The U.S. Senate has voted three times in recent years on whether to overturn Quill to require remote sellers with no nexus to serve the States as their tax collectors. Every time the Senate has rejected the notion. On January 19, 1995, the Senate voted 73–25 to table the amendment; on October 2, 1998, the Senate voted 66–29 to table the amendment; and most recently, on November 15, 2001, the Senate voted 57–43 to table the amendment.

As Congress revisits this issue again this year, we should remember what the Supreme Court said in Quill: ''Congress is . . . free to decide whether, when and to what extent the States may burden mail-order concerns with a duty to collect use taxes.'' The authority the Constitution vests in Congress to regulate interstate commerce—online or otherwise—is an enormous power that must be exercised with great care and caution. I believe the moratorium should be extended indefinitely, and that is what the legislation I introduce today would do. I am pleased to be joined once again in this effort by Representative CHRIS COX, and 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. 52

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 ''Internet Tax Nondiscrimination Act''.

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) PERMANENT EXTENSION; INTERNET ACCESS TAXES.—Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking ''taxes during the period beginning on October 1, 1998, and ending on November 1, 2003—'' and inserting ''taxes after September 30, 1998:'';

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

''(1) Taxes on Internet access.'';

(3) by striking ''multiple'' in paragraph (2) of subsection (a) and inserting ''Multiple'';

(4) by striking subsection (d); and

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) CONFORMING AMENDMENT.—Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''unless'' and all that follows through ''1998''.

By Mr. SCHUMER (for himself, Mr. MCCAIN, Mr. EDWARDS, Ms. COLLINS, Mr. KENNEDY, Mr. MILLER, Mr. JOHNSON, Mrs.

CLINTON, Mr. KOHL, Mr. FEINGOLD, Ms. STABENOW, Mr. DASCHLE, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. LEAHY, Mr. REED, Mr. PRYOR, Mr. DURBIN, and Mr. DORGAN):

S. 54. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; 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 bill was ordered to be printed in the RECORD, as follows:

S. 54

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 ''Greater Access to Affordable Pharmaceuticals Act of 2003''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) prescription drug costs are increasing at an alarming rate and are a major worry of American families and senior citizens;

(2) enhancing competition between generic drug manufacturers and brand-name manufacturers can significantly reduce prescription drug costs for American families;

(3) the pharmaceutical market has become increasingly competitive during the last decade because of the increasing availability and accessibility of generic pharmaceuticals, but competition must be further stimulated and strengthened;

(4) the Federal Trade Commission has discovered that there are increasing opportunities for drug companies owning patents on brand-name drugs and generic drug companies to enter into private financial deals in a manner that could restrain trade and greatly reduce competition and increase prescription drug costs for consumers;

(5) generic pharmaceuticals are approved by the Food and Drug Administration on the basis of scientific testing and other information establishing that pharmaceuticals are therapeutically equivalent to brand-name pharmaceuticals, ensuring consumers a safe, efficacious, and cost-effective alternative to brand-name innovator pharmaceuticals;

(6) the Congressional Budget Office estimates that—

(A) the use of generic pharmaceuticals for brand-name pharmaceuticals could save purchasers of pharmaceuticals between $8,000,000,000 and $10,000,000,000 each year; and

(B) generic pharmaceuticals cost between 25 percent and 60 percent less than brand-name pharmaceuticals, resulting in an estimated average savings of $15 to $30 on each prescription;

(7) generic pharmaceuticals are widely accepted by consumers and the medical profession, as the market share held by generic pharmaceuticals compared to brand-name pharmaceuticals has more than doubled during the last decade, from approximately 19 percent to 43 percent, according to the Congressional Budget Office;

(8) expanding access to generic pharmaceuticals can help consumers, especially senior citizens and the uninsured, have access to more affordable prescription drugs;

(9) Congress should ensure that measures are taken to effectuate the amendments made by the Drug Price Competition and Patent Term Restoration Act of 1984 (98 Stat. 1585) (referred to in this section as the ''Hatch-Waxman Act'') to make generic drugs more accessible, and thus reduce health care costs; and

(10) it would be in the public interest if patents on drugs for which applications are approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) were extended only through the patent extension procedure provided under the Hatch-Waxman Act rather than through the attachment of riders to bills in Congress.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase competition, thereby helping all Americans, especially seniors and the uninsured, to have access to more affordable medication; and

(2) to ensure fair marketplace practices and deter pharmaceutical companies (including generic companies) from engaging in anticompetitive action or actions that tend to unfairly restrain trade.

SEC. 3. FILING OF PATENT INFORMATION WITH THE FOOD AND DRUG ADMINISTRATION.

(a) FILING AFTER APPROVAL OF AN APPLICATION.—

(1) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) (as amended by section 9(a)(2)(B)(ii)) is amended in subsection (c) by striking paragraph (2) and inserting the following:

''(2) PATENT INFORMATION.—

''(A) IN GENERAL.—Not later than the date that is 30 days after the date of an order approving an application under subsection (b) (unless the Secretary extends the date because of extraordinary or unusual circumstances), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) with respect to any patent—

''(i)(I) that claims the drug for which the application was approved; or

''(II) that claims an approved method of using the drug; and

''(ii) with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug.

''(B) SUBSEQUENTLY ISSUED PATENTS.—In a case in which a patent described in subparagraph (A) is issued after the date of an order approving an application under subsection (b), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) not later than the date that is 30 days after the date on which the patent is issued (unless the Secretary extends the date because of extraordinary or unusual circumstances).

''(C) PATENT INFORMATION.—The patent information required to be filed under subparagraph (A) or (B) includes—

''(i) the patent number;

''(ii) the expiration date of the patent;

''(iii) with respect to each claim of the patent—

''(I) whether the patent claims the drug or claims a method of using the drug; and

''(II) whether the claim covers—

''(aa) a drug substance;

''(bb) a drug formulation;

''(cc) a drug composition; or

''(dd) a method of use;

''(iv) if the patent claims a method of use, the approved use covered by the claim;

''(v) the identity of the owner of the patent (including the identity of any agent of the patent owner); and

''(vi) a declaration that the applicant, as of the date of the filing, has provided complete and accurate patent information for all patents described in subparagraph (A).

''(D) PUBLICATION.—On filing of patent information required under subparagraph (A) or (B), the Secretary shall—

''(i) immediately publish the information described in clauses (i) through (iv) of subparagraph (C); and

''(ii) make the information described in clauses (v) and (vi) of subparagraph (C) available to the public on request.

''(E) CIVIL ACTION FOR CORRECTION OR DELETION OF PATENT INFORMATION.—

''(i) IN GENERAL.—A person that has filed an application under subsection (b)(2) or (j) for a drug may bring a civil action against the holder of the approved application for the drug seeking an order requiring that the holder of the application amend the application—

''(I) to correct patent information filed under subparagraph (A); or

''(II) to delete the patent information in its entirety for the reason that—

''(aa) the patent does not claim the drug for which the application was approved; or

''(bb) the patent does not claim an approved method of using the drug.

''(ii) LIMITATIONS.—Clause (i) does not authorize—

''(I) a civil action to correct patent information filed under subparagraph (B); or

''(II) an award of damages in a civil action under clause (i).

''(F) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application fails to file information on or before the date required under subparagraph (A) or (B) shall be barred from bringing a civil action for infringement of the patent against a person that—

''(i) has filed an application under subsection (b)(2) or (j); or

''(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j).''.

(2) TRANSITION PROVISION.—

(A) FILING OF PATENT INFORMATION.—Each holder of an application for approval of a new drug under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) that has been approved before the date of enactment of this Act shall amend the application to include the patent information required under the amendment made by paragraph (1) not later than the date that is 30 days after the date of enactment of this Act (unless the Secretary of Health and Human Services extends the date because of extraordinary or unusual circumstances).

(B) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application under subsection (b) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) fails to file information on or before the date required under subparagraph (A) shall be barred from bringing a civil action for infringement of the patent against a person that—

(i) has filed an application under subsection (b)(2) or (j) of that section; or

(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j) of that section.

(b) FILING WITH AN APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b)(2)—

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

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

(C) by adding at the end the following:

''(C) with respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed—

''(i) a certification under subparagraph (A)(iv) on a claim-by-claim basis; and

''(ii) a statement under subparagraph (B) regarding the method of use claim.''; and

(2) in subsection (j)(2)(A), by inserting after clause (viii) the following:

''With respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed, the application shall contain a certification under clause (vii)(IV) on a claim-by-claim basis and a statement under clause (viii) regarding the method of use claim.''.

SEC. 4. LIMITATION OF 30-MONTH STAY TO CERTAIN PATENTS.

(a) ABBREVIATED NEW DRUG APPLICATIONS.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) by striking ''(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii),'' and inserting the following:

''(iii) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under subsection (c)(2)(A),''; and

(ii) by adding at the end the following: ''The 30-month period provided under the second sentence of this clause shall not apply to a certification under paragraph (2)(A)(vii)(IV) made with respect to a patent for which patent information was filed with the Secretary under subsection (c)(2)(B).'';

(B) by redesignating clause (iv) as clause (v); and

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

''(iv) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—

''(I) IN GENERAL.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent not described in clause (iii) for which patent information was published by the Secretary under subsection (c)(2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under paragraph (2)(B) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—

''(aa) on the date of a court action declining to grant a preliminary injunction; or

''(bb) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—

''(AA) on issuance by a court of a determination that the patent is invalid or is not infringed;

''(BB) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or

''(CC) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.

''(II) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under subclause (I).

''(III) EXPEDITED NOTIFICATION.—If the notice under paragraph (2)(B) contains an address for the receipt of expedited notification of a civil action under subclause (I), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day.''; and

(2) by inserting after subparagraph (B) the following:

''(C) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under this subsection, the applicant provides an owner of a patent notice under paragraph (2)(B) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under this subsection.''.

(b) OTHER APPLICATIONS.—Section 505(c)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) (as amended by section 9(a)(3)(A)(iii)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (C)—

(i) by striking ''(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A),'' and inserting the following:

''(C) CLAUSE (iv) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under paragraph (2)(A),''; and

(ii) by adding at the end the following: ''The 30-month period provided under the second sentence of this subparagraph shall not apply to a certification under subsection (b)(2)(A)(iv) made with respect to a patent for which patent information was filed with the Secretary under paragraph (2)(B).''; and

(B) by inserting after subparagraph (C) the following:

''(D) CLAUSE (iv) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—

''(i) IN GENERAL.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent not described in subparagraph (C) for which patent information was published by the Secretary under paragraph (2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under subsection (b)(3) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—

''(I) on the date of a court action declining to grant a preliminary injunction; or

''(II) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—

''(aa) on issuance by a court of a determination that the patent is invalid or is not infringed;

''(bb) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or

''(cc) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.

''(ii) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under clause (i).

''(iii) EXPEDITED NOTIFICATION.—If the notice under subsection (b)(3) contains an address for the receipt of expedited notification of a civil action under clause (i), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day.''; and

(2) by inserting after paragraph (3) the following:

''(4) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under subsection (b)(2), the applicant provides an owner of a patent notice under subsection (b)(3) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under subsection (b)(2).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall be effective with respect to any certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) made after the date of enactment of this Act in an application filed under subsection (b)(2) or (j) of that section.

(2) TRANSITION PROVISION.—In the case of applications under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) filed before the date of enactment of this Act—

(A) a patent (other than a patent that claims a process for manufacturing a listed drug) for which information was submitted to the Secretary of Health and Human Services under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (as in effect on the day before the date of enactment of this Act) shall be subject to subsections (c)(3)(C) and (j)(5)(B)(iii) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section); and

(B) any other patent (including a patent for which information was submitted to the Secretary under section 505(c)(2) of that Act (as in effect on the day before the date of enactment of this Act)) shall be subject to subsections (c)(3)(D) and (j)(5)(B)(iv) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section).

SEC. 5. EXCLUSIVITY FOR ACCELERATED GENERIC DRUG APPLICANTS.

(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 4(a)) is amended—

(1) in subparagraph (B)(v), by striking subclause (II) and inserting the following:

''(II) the earlier of—

''(aa) the date of a final decision of a court (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) holding that the patent that is the subject of the certification is invalid or not infringed; or

''(bb) the date of a settlement order or consent decree signed by a Federal judge that enters a final judgment and includes a finding that the patent that is the subject of the certification is invalid or not infringed;''; and

(2) by inserting after subparagraph (C) the following:

''(D) FORFEITURE OF 180-DAY PERIOD.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) APPLICATION.—The term 'application' means an application for approval of a drug

under this subsection containing a certification under paragraph (2)(A)(vii)(IV) with respect to a patent.

''(II) FIRST APPLICATION.—The term 'first application' means the first application to be filed for approval of the drug.

''(III) FORFEITURE EVENT.—The term 'forfeiture event', with respect to an application under this subsection, means the occurrence of any of the following:

''(aa) FAILURE TO MARKET.—The applicant fails to market the drug by the later of—

''(AA) the date that is 60 days after the date on which the approval of the application for the drug is made effective under clause (iii) or (iv) of subparagraph (B) (unless the Secretary extends the date because of extraordinary or unusual circumstances); or

''(BB) if 1 or more civil actions have been brought against the applicant for infringement of a patent subject to a certification under paragraph (2)(A)(vii)(IV) or 1 or more civil actions have been brought by the applicant for a declaratory judgment that such a patent is invalid or not infringed, the date that is 60 days after the date of a final decision (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) in the last of those civil actions to be decided (unless the Secretary extends the date because of extraordinary or unusual circumstances).

''(bb) WITHDRAWAL OF APPLICATION.—The applicant withdraws the application.

''(cc) AMENDMENT OF CERTIFICATION.—The applicant, voluntarily or as a result of a settlement or defeat in patent litigation, amends the certification from a certification under paragraph (2)(A)(vii)(IV) to a certification under paragraph (2)(A)(vii)(III).

''(dd) FAILURE TO OBTAIN APPROVAL.—The applicant fails to obtain tentative approval of an application within 30 months after the date on which the application is filed, unless the failure is caused by—

''(AA) a change in the requirements for approval of the application imposed after the date on which the application is filed; or

''(BB) other extraordinary circumstances warranting an exception, as determined by the Secretary.

''(ee) FAILURE TO CHALLENGE PATENT.—In a case in which, after the date on which the applicant submitted the application, new patent information is submitted under subsection (c)(2) for the listed drug for a patent for which certification is required under paragraph (2)(A), the applicant fails to submit, not later than the date that is 60 days after the date on which the Secretary publishes the new patent information under paragraph (7)(A)(iii) (unless the Secretary extends the date because of extraordinary or unusual circumstances)—

''(AA) a certification described in paragraph (2)(A)(vii)(IV) with respect to the patent to which the new patent information relates; or

''(BB) a statement that any method of use claim of that patent does not claim a use for which the applicant is seeking approval under this subsection in accordance with paragraph (2)(A)(viii).

''(ff) UNLAWFUL CONDUCT.—The Federal Trade Commission determines that the applicant engaged in unlawful conduct with respect to the application in violation of section 1 of the Sherman Act (15 U.S.C. 1).

''(IV) SUBSEQUENT APPLICATION.—The term 'subsequent application' means an application for approval of a drug that is filed subsequent to the filing of a first application for approval of that drug.

''(ii) FORFEITURE OF 180-DAY PERIOD.—

''(I) IN GENERAL.—Except as provided in subclause (II), if a forfeiture event occurs with respect to a first application—

''(aa) the 180-day period under subparagraph (B)(v) shall be forfeited by the first applicant; and

''(bb) any subsequent application shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), and clause (v) of subparagraph (B) shall not apply to the subsequent application.

''(II) FORFEITURE TO FIRST SUBSEQUENT APPLICANT.—If the subsequent application that is the first to be made effective under subclause (I) was the first among a number of subsequent applications to be filed—

''(aa) that first subsequent application shall be treated as the first application under this subparagraph (including subclause (I)) and as the previous application under subparagraph (B)(v); and

''(bb) any other subsequent applications shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), but clause (v) of subparagraph (B) shall apply to any such subsequent application.

''(iii) AVAILABILITY.—The 180-day period under subparagraph (B)(v) shall be available to a first applicant submitting an application for a drug with respect to any patent without regard to whether an application has been submitted for the drug under this subsection containing such a certification with respect to a different patent.

''(iv) APPLICABILITY.—The 180-day period described in subparagraph (B)(v) shall apply to an application only if a civil action is brought against the applicant for infringement of a patent that is the subject of the certification.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act, except that if a forfeiture event described in section 505(j)(5)(D)(i)(III)(ff) of that Act occurs in the case of an applicant, the applicant shall forfeit the 180-day period under section 505(j)(5)(B)(v) of that Act without regard to when the applicant made a certification under section 505(j)(2)(A)(vii)(IV) of that Act.

SEC. 6. FAIR TREATMENT FOR INNOVATORS.

(a) BASIS FOR APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b)(3)(B), by striking the second sentence and inserting ''The notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation.''; and

(2) in subsection (j)(2)(B)(ii), by striking the second sentence and inserting ''The notice shall include a detailed statement of the factual and legal basis of the opinion of the applicant that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation.''.

(b) INJUNCTIVE RELIEF.—Section 505(j)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)) (as amended by section 4(a)(1)) is amended—

(1) in clause (iii), by adding at the end the following: ''A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause.''; and

(2) in clause (iv), by adding at the end the following:

''(IV) INJUNCTIVE RELIEF.—A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause.''.

SEC. 7. BIOEQUIVALENCE.

(a) IN GENERAL.—The amendments to part 320 of title 21, Code of Federal Regulations, promulgated by the Commissioner of Food and Drugs on July 17, 1991 (57 Fed. Reg. 17997 (April 28, 1992)), shall continue in effect as an exercise of authorities under sections 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 355, 371).

(b) EFFECT.—Subsection (a) does not affect the authority of the Commissioner of Food and Drugs to amend part 320 of title 21, Code of Federal Regulations.

(c) EFFECT OF SECTION.—This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). Any such authority shall be exercised under that Act as in effect on the day before the date of enactment of this Act.

SEC. 8. REPORT.

(a) IN GENERAL.—Not later than the date that is 5 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report describing the extent to which implementation of the amendments made by this Act—

(1) has enabled products to come to market in a fair and expeditious manner, consistent with the rights of patent owners under intellectual property law; and

(2) has promoted lower prices of drugs and greater access to drugs through price competition.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

SEC. 9. CONFORMING AND TECHNICAL AMENDMENTS.

(a) SECTION 505.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (a), by striking ''(a) No person'' and inserting ''(a) IN GENERAL.—No person'';

(2) in subsection (b)—

(A) by striking ''(b)(1) Any person'' and inserting the following:

''(b) APPLICATIONS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—Any person'';

(B) in paragraph (1)—

(i) in the second sentence—

(I) by redesignating subparagraphs (A) through (F) as clauses (i) through (vi), respectively, and adjusting the margins appropriately;

(II) by striking ''Such persons'' and inserting the following:

''(B) INFORMATION TO BE SUBMITTED WITH APPLICATION.—A person that submits an application under subparagraph (A)''; and

(III) by striking ''application'' and inserting ''application—'';

(ii) by striking the third through fifth sentences; and

(iii) in the sixth sentence—

(I) by striking ''The Secretary'' and inserting the following:

''(C) GUIDANCE.—The Secretary''; and

(II) by striking ''clause (A)'' and inserting ''subparagraph (B)(i)''; and

(C) in paragraph (2)—

(i) by striking ''clause (A) of such paragraph'' and inserting ''paragraph (1)(B)(i)'';

(ii) in subparagraphs (A) and (B), by striking ''paragraph (1) or''; and

(iii) in subparagraph (B)—

(I) by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)(B)(i)''; and

(II) by striking ''patent'' each place it appears and inserting ''claim''; and

(3) in subsection (c)—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''(A) If the applicant'' and inserting the following:

''(A) CLAUSE (i) OR (ii) CERTIFICATION.—If the applicant''; and

(II) by striking ''may'' and inserting ''shall'';

(ii) in subparagraph (B)—

(I) by striking ''(B) If the applicant'' and inserting the following:

''(B) CLAUSE (iii) CERTIFICATION.—If the applicant''; and

(II) by striking ''may'' and inserting ''shall'';

(iii) by redesignating subparagraph (D) as subparagraph (E); and

(iv) in subparagraph (E) (as redesignated by clause (iii)), by striking ''clause (A) of subsection (b)(1)'' each place it appears and inserting ''subsection (b)(1)(B)(i)''; and

(B) by redesignating paragraph (4) as paragraph (5); and

(4) in subsection (j)—

(A) in paragraph (2)(A)—

(i) in clause (vi), by striking ''clauses (B) through ((F)'' and inserting ''subclauses (ii) through (vi) of subsection (b)(1)'';

(ii) in clause (vii), by striking ''(b) or''; and

(iii) in clause (viii)—

(I) by striking ''(b) or''; and

(II) by striking ''patent'' each place it appears and inserting ''claim''; and

(B) in paragraph (5)—

(i) in subparagraph (B)—

(I) in clause (i)—

(aa) by striking ''(i) If the applicant'' and inserting the following:

''(i) SUBCLAUSE (I) OR (II) CERTIFICATION.—If the applicant''; and

(bb) by striking ''may'' and inserting ''shall'';

(II) in clause (ii)—

(aa) by striking ''(ii) If the applicant'' and inserting the following:

''(i) SUBCLAUSE (III) CERTIFICATION.—If the applicant''; and

(bb) by striking ''may'' and inserting ''shall'';

(III) in clause (iii), by striking ''(2)(B)(i)'' each place it appears and inserting ''(2)(B)''; and

(IV) in clause (v) (as redesignated by section 4(a)(1)(B)), by striking ''continuing'' and inserting ''containing''; and

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively.

(b) SECTION 505A.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i)—

(A) by striking ''(c)(3)(D)(ii)'' each place it appears and inserting ''(c)(3)(E)(ii)''; and

(B) by striking ''(j)(5)(D)(ii)'' each place it appears and inserting ''(j)(5)(F)(ii)'';

(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii)—

(A) by striking ''(c)(3)(D)'' each place it appears and inserting ''(c)(3)(E)''; and

(B) by striking ''(j)(5)(D)'' each place it appears and inserting ''(j)(5)(F)'';

(3) in subsections (e) and (l)—

(A) by striking ''505(c)(3)(D)'' each place it appears and inserting ''505(c)(3)(E)''; and

(B) by striking ''505(j)(5)(D)'' each place it appears and inserting ''505(j)(5)(F)''; and

(4) in subsection (k), by striking ''505(j)(5)(B)(iv)'' and inserting ''505(j)(5)(B)(v)''.

(c) SECTION 527.—Section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(a)) is amended in the second sentence by striking ''505(c)(2)'' and inserting ''505(c)(1)(B)''.

Ms. COLLINS. Mr. President, I am pleased to join my colleagues from New York and Arizona in introducing the Greater Access to Affordable Pharmaceuticals Act, which will make prescription drugs more affordable by promoting completion in the pharmaceutical industry and increasing access to lower-priced generic drugs. The bipartisan bill that we are introducing today is identical to the compromise legislation that overwhelmingly passed the Senate last July by a vote of 78 to 21. That compromise was based on an amendment I Offered in the Health, Education, Labor and Pensions Committee with my colleague form North Carolina, Senator Edwards.

Prescription drug spending in the United States has increased by 92 percent over the past 5 years to almost $120 million. These soaring costs are a particular burden for the millions of uninsured Americans, as well as those seniors on Medicare who lack prescription drug coverage. Many of these individuals are simply priced out of the market, or forced to choose between paying the bills or buying the pills that keep them healthy.

Skyrocketing prescription drug costs are also putting the squeeze on our Nation's employers who are struggling in the face of double-digit annual premium increases to provide health care coverage for their workers. And they are exacerbating the Medicaid funding crisis that all of us are hearing about from our Governors back home as they struggle to bridge growing shortfalls in their State budgets.

The legislation that we are introducing today will make prescription drugs more affordable for all Americans. The nonpartisan Congressional Budget Office estimates that are bill will cut our Nation's drug costs by $60 billion over the next 10 years. That is why the legislation is supported by coalitions representing the Governors, insurers, businesses, organized labor, senior groups, and individual consumers who are footing the bill for these expensive drugs and whose costs for popular drugs like Cardizem CD, Cipro, Prilosec, and Zantac could be cut in half if generic alternatives were available.

The 1984 Hatch-Waxman Act made significant changes in our patent laws that were intended to encourage pharmaceutical companies to make the investments necessary to develop new drug products, while simultaneously enabling their competitors to bring lower-cost, generic alternatives to the market. To that end, the legislation has succeeded to a large degree. Prior to Hatch-Waxman, it took 3 to 5 years for generics to enter the market after a brand-name patent had expired. Today, lower-cost generics often enter the market immediately upon the expiration of the patent. As a consequence, consumers are saving anywhere from $8 to 10 billion a year by purchasing generic drugs.

Moreover, there are even greater potential savings on the horizon. Within the next 4 years, the patents on brand name drugs with combined sales of $20 billion are set to expire. If Hatch-Waxman were to work as it was intended, consumers could expect to save between 50 and 60 percent on these drugs as lower cost generic alternatives become available as these patents expire.

Despite its past success, however,it is becoming increasingly apparent that the Hatch-Waxman Act has been subject to abuse. While many pharmaceutical companies have acted in good faith, there is mounting evidence that some brand name generic drug manufacturers have attempted to ''game'' the system by exploiting legal loopholes in the current law.

Too many pharmaceutical companies have maximized their profits at the expense of consumers by filing frivolous patents that have delayed access to lower priced generic drugs. Currently, brand-name companies can delay a generic drug from going to market for years. A ''new'' patent for an existing drug can be awarded for merely changing the color of a pill or its packaging. For example, Bristol Myers-Squibb delayed generic competition on Platinol, a cancer treatment, by filing a patent on the brown bottle that it came in.

Another example cited by the Chairman of the Federal Trade Commission, Timothy Muris, in testimony before the Senate Commerce Commission, involved the producer of the heart medication Cardizem CD, which brought a lawsuit for patent and trademark infringement against the generic manufacturer in early 1996. Instead of asking the generic company to pay damages, however, the brand name manufacturer offered a settlement to pay the generic company more than $80 million in return for keeping the generic drug off the market. Meanwhile, users of Cardizem—which treats high blood pressure, chest pains and heart disease—were paying about $73 a month when the generic would have cost about $32 a month.

Last July, the Federal Trade Commission released a long-awaited report that found that brand-name drug manufacturers have misused legal loopholes to delay the entry of lower-cost generics into the market. The FTC found that these tactics have led to delays of between four and 40 months—

over and above the first 30-month stay provided under Hatch-Waxman—for generic competitors of at least eight drugs since 1992. Moreover, six of the eight delays have occurred since 1998.

The FTC report points to two specific provisions of the Hatch-Waxman Act—the automatic 30-month stay and the 180–day market exclusivity for the first generic to file a patent challenge—as being susceptible to strategies that could delay the entry of lower-cost generics into the market. According to the report, these loopholes ''continue to have the potential for abuse,'' and, if left unchanged, ''may have more significance in the future.'' These are the very loopholes that the legislation we are introducing today would close.

The original Hatch-Waxman Act was a carefully constructed compromise that balanced an expedited FDA approval process to speed the entry of lower-cost generic drugs into the market with additional patent protections to ensure continuing innovation. The bipartisan bill that we are introducing today restores that balance by closing the loopholes that have reduced the original law's effectiveness in bringing lower-cost generic drugs to market more quickly, and I urge all of my colleagues to join us as cosponsors.

By Mr. INOUYE:

S. 57. A bill for the relief of Donald C. Pence; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Donald C. Pence of Stanford, NC, for compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence. It is rare that a Federal agency admits a mistake. In this case, the Department of Veterans Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provisions authorizing the Department to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice, and I urge my colleagues to support this measure.

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

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

S. 57

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) LIMITATION ON FEES.—Not more than a total of 10 percent of the payment authorized by subsection (a) shall be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 58. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I rise to introduce legislation which would amend the Internal Revenue Code of 1986 to allow Cooperative Housing Corporations, co-ops, to convert to condominium forms of ownership.

Under current law, a conversion from a cooperative shareholding to condominium ownership is taxable at a corporate level as well as an individual level. The conversion is treated as a corporate liquidation, and therefore taxed accordingly. In addition, a capital gains tax is levied on any increase between the owner's basis in the co-op share pre-conversion and the market value of the condominium interest post-conversion. This double taxation dissuades condominium conversion because the owner is being taxed on the transaction which is nothing more than a change in the form of ownership. While the Internal Revenue Service concedes that there are no discernable advantages to society of the cooperative form of ownership, they do not view Federal tax statutes as providing sufficient flexibility with which to address the obstacles of conversion.

Cooperative housing organizes the ownership structure into a corporation, with shares of stock for each apartment unit, which are sold to buyers. The corporation then issues a proprietary lease entitling the owner of the stock to the use of the unit in perpetuity. Because the investment is in the form of a share of stock, investors sometimes lose their entire investment as a result of debt incurred by the corporation in construction and development. In addition, due to the structure of a cooperative housing corporation, a prospective purchaser of shares in the corporation from an existing tenant-stockholders has difficulty obtaining mortgage financing for the purchase. Furthermore, tenant-stockholders of cooperative housing also encounter difficulties in securing bank loans for the full value of their investment.

As a result, owners of cooperative housing are increasingly looking toward conversion to the condominium structure of ownership. Condominium ownership permits the owner of a unit to own the unit itself, eliminating the cooperative housing dilemma of corporate debt that supersedes the investment of cooperative housing share owners, and other financial concerns.

The legislation I introduce today will remove the penalty of double taxation from the conversion of cooperative housing to condominium ownership, and will greatly benefit co-op owners across the nation. The bill does not apply to cooperatives which have been or are now being financed by any Federal, State, or local programs for the purpose of assisting in the construction of affordable housing cooperatives or the conversion of rental units to affordable housing cooperatives. I urge my colleagues' consideration of and support for this measure.

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

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

S. 58

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

SECTION 1. NONRECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Section 216(e) of the Internal Revenue Code of 1986 (relating to distributions by cooperative housing corporations) is amended to read as follows:

''(e) DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.—

''(1) IN GENERAL.—Except as provided in regulations—

''(A) no gain or loss shall be recognized to a cooperative housing corporation on the distribution by such corporation of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder's stock in such corporation, and

''(B) no gain or loss shall be recognized to a stockholder of such corporation on the transfer of such stockholder's stock in an exchange described in subparagraph (A).

''(2) BASIS.—The basis of a dwelling unit acquired in a distribution to which paragraph (1) applies shall be the same as the basis of the stock in the cooperative housing corporation for which it is exchanged, decreased in the amount of any money received by the taxpayer in such exchange.

(3) APPLICABILITY.—This subsection shall not apply with respect to any dwelling unit the basis of which includes financing under any Federal, State, or local program for the purpose of assisting the construction of affordable housing cooperatives or the conversion of rental units to affordable housing cooperatives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

By Mr. INOUYE:

S. 59. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel

on a space-available basis on nonscheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ''thank you'' by supporting this legislation.

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

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

S. 59

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

''§ 1060b. Travel on military aircraft: certain disabled former members of the armed forces

''The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

''1060b. Travel on military aircraft: certain disabled former members of the armed forces.''.

By Mr. INOUYE:

S. 60. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

S. 60

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

''§ 1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

''(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

''(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

''(1) separated from active duty in the armed forces under honorable conditions; and

''(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

''(c) DEFINITIONS.—In this section:

''(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

''(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

''1064a. Use of commissary and exchange stores by certain disabled former prisoners of war.''.

By Mr. INOUYE:

S. 61. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today I rise to introduce the Physical and Occupational Therapy Education Act of 2003. This legislation will increase educational opportunities for physical therapy and occupational therapy practitioners in order to meet the growing demand for the valuable services they provide in our communities.

Several factors contribute to the present need for federal support in this area. The rapid aging of our Nation's population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapy services. This demand has exceeded our ability to educate an adequate number of physical therapists and occupational therapists. In addition, technological advances are allowing injured and disabled individuals to survive conditions that would have proven fatal in past years.

An inadequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers who enter the U.S. as H–1B visa holders. The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H–1B visa holders in the United States, second only to computer specialists.

In addition to the shortage of practitioners, a shortage of faculty impedes the expansion of established education programs. The critical shortage of doctoral-prepared occupational therapists and physical therapists has resulted in a depleted pool of potential faculty. This bill would assist in the development of qualified faculty by giving preference to grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. The investment we make will help reduce America's dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens.

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

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

S. 61

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 ''Physical Therapy and Occupational Therapy Education Act of 2003''.

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended by inserting after section 769, the following:

''SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

''(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

''(c) PEER REVIEW.—Each peer review group under section 799(f) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

''(d) REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Secretary shall prepare a report that—

''(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

''(B) specifies the identity of entities receiving the grants or contracts; and

''(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

''(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2004, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2004 through 2006.''.

By Mr. INOUYE:

S. 62. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the full extent of their State practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare, Part B, Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition under the Medicare comprehensive outpatient rehabilitation facility program.

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

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

S. 62

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 ''Autonomy for Psychologists and Social Workers Act of 2003''.

SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking ''physician'' and inserting ''physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2004.

By Mr. INOUYE:

S. 63. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the Nursing School Clinics Act of 2003. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit primary care centers developed mainly in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practices nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the financial incentives for clinic operators to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider a wide range of proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 2003 recognizes the central role nurses can perform as care givers to the medically underserved.

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

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

S. 63

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 ''Nursing School Clinics Act of 2003''.

SEC. 2. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (26), by striking ''and'' at the end;

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26), the following new paragraph:

''(27) nursing school clinic services (as defined in subsection (x)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(x) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.''.

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 64. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. It is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

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

S. 64

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 ''Equity for Clinical Social Workers Act of 2003''.

SEC. 2. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2004.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in reaching out to the Nation's medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in thousands of hospitalizations a year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

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

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

S. 65

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 ''Psychologists in the Service of the Public Act of 2003''.

SEC. 2. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended by adding at the end the following:

''SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

''(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

''(b) ELIGIBLE ENTITIES.—

''(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

''(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

''(B) will provide services in a medically underserved population during the period of such grant;

''(C) will comply with the provisions of subsection (c); and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

''(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

''(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

''(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

''(D) will provide any other information or assurance as the Secretary determines appropriate.

''(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

''(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically unserved populations'.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2004 through 2006.''.

By Mr. INOUYE:

S. 66. A bill to amend title 5, United States Code, to require the issuance of prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

Mr. INOUYE. Mr. President, all too often we find that our Nation's civilian employees of the Federal Government who have been forcibly detained or interred by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner of war medal for such citizens.

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

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

S. 66

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

''CHAPTER 25—MISCELLANEOUS AWARDS

''Sec.

''2501. Prisoner-of-war medal: issue.

''§ 2501. Prisoner-of-war medal: issue

''(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of such person's own willful misconduct—

''(1) by an enemy government or its agents, or a hostile force, during a period of war; or

''(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

''(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

''(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

''(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

''(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

''(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

''(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.''.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

''25. Miscellaneous Awards ..... 2501''.

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Mr. INOUYE:

S. 67. A bill for the relief of Jim K. Yoshida; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Jim K. Yoshida, to obtain recognition of his service with the U.S. military in Korea so that he may obtain veteran's status.

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

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

S. 67

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

SECTION 1. VETERAN STATUS.

(a) ENTITLEMENT TO STATUS.—Notwithstanding any other provision of law, Jim K. Yoshida of Honolulu, Hawaii, is deemed to be a veteran for the purposes of all laws administered by the Secretary of Veterans Affairs.

(b) TREATMENT OF SERVICE.—Notwithstanding any other provision of law, the service of Jim K. Yoshida of Honolulu, Hawaii, as a volunteer member of the United States Army during the period beginning on July 2, 1950, and ending on January 17, 1951, shall be deemed to be active military service from which Jim K. Yoshida was discharged under honorable conditions for the purposes of all laws administered by the Secretary of Veterans Affairs.

(c) PROSPECTIVE APPLICABILITY.—No benefits may be paid or otherwise provided to Jim K. Yoshida of Honolulu, Hawaii, by reason of the enactment of this Act with respect to any period before the date of the enactment of this Act.

By Mr. INOUYE:

S. 68. A bill to amend title 36, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I rise to introduce the Filipino Veterans' Benefits Improvement Act of 2003 to give our country the opportunity to right a wrong committed decades ago by providing Philippine-born veterans of World War II, who served in the United States Armed Forces, their hard-earned, due compensation.

The Philippines became a United States possession in 1898, when it was ceded from Spain following the Spanish-American War. In 1934, the Congress enacted the Philippine Independence Act, Public Law 73–127, which provided a 10-year time frame for the independence of the Philippines. Between 1934 and final independence in 1946, the United States retained certain powers over the Philippines, including the right to call all military forces organized by the newly-formed Commonwealth government into the service of the United States Armed Forces.

On July 26, 1941, President Roosevelt issued an Executive Order calling members of the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East. Under this order, Filipinos were entitled to full veterans' benefits. More than 100,000 Filipinos volunteered for the Philippine Commonwealth Army and fought alongside the United States Armed Forces.

Shortly after Japan's surrender, Congress enacted the Armed Forces Voluntary Recruitment Act of 1945 for the purpose of sending American troops to occupy enemy lands, and to oversee military installations at various overseas locations.

A provision included in the Recruitment Act called for the enlistment of Philippine citizens to constitute a new body of scouts. The New Philippine Scouts were authorized to receive pay and allowances for services performed throughout the Western Pacific. Although hostilities had ceased, wartime service of the New Philippine Scouts continued as a matter of law until the end of 1946.

Despite their sacrifices, on February 18, 1946, Congress betrayed these veterans by enacting the Rescission Act of 1946 and declaring the service performed by the Philippine Commonwealth Army veterans as not ''active service,'' thus denying many benefits to which these veterans were entitled.

On May 27, 1946, the Congress enacted the Second Supplemental Surplus Appropriations Rescission Act, which included a provision to limit veterans' benefits provided to Filipinos. This provision duplicated the language that had eliminated veterans' benefits under the First Rescission Act, and placed similar restrictions on veterans of the New Philippine Scouts. Thus, the Filipino veterans who fought in the service of the United States during World War II were precluded from receiving most veterans' benefits that had been available to them before 1946, and that are available to all other veterans of our armed forces regardless of race, national origin, or citizenship status.

The Congress tried to rectify the wrong committed against the Filipino veterans of World War II by amending the Nationality Act of 1940, to grant the veterans the privilege of becoming United States citizens for having served in the United States Armed Forces of the Far East. The law expired at the end of 1946, but not before the United States had withdrawn its sole naturalization examiner from the Philippines for a nine-month period. This

effectively denied Filipino veterans the opportunity to become citizens during this nine-month window. Forty-five years later, under the Immigration Act of 1990, certain Filipino veterans who had served during World War II became eligible for United States citizenship. Between November, 1990, and February, 1995, approximately 24,000 veterans took advantage of this opportunity and became United States citizens.

Although progress has been made, we must, as a nation, correct fully the injustice caused by the Rescission Acts by providing equal treatment for the service and sacrifice by these brave men. The Filipino Veterans' Benefits Improvement Act of 2003 will compensate eligible veterans by providing a number of needed benefits: Dependency and Indeminity Compensation to surviving widows of service-connected veterans living in the United States; a payment increase to New Philippine Scouts and survivors residing in the United States from 50 percent to the full dollar amount for service-connected disability compensation; authorization of non-service connected disability pensions for veterans residing in the Philippines, but at a rate of $100 per month, which matches the amount of the veterans' pension received by them from the Philippine government; access to veterans hospitals for non-service connected disabled veterans in the same manner as United States veterans; and $500,000 per year to the Outpatient Clinic in Manila.

Heroes should never be forgotten or ignored, so let us not turn our backs on those who sacrificed so much. Many of the Filipinos who fought so hard for our nation have been honored with American citizenship, but let us now work to repay all of these brave men for their sacrifices by providing them the veterans' benefits they have earned.

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. 68

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 ''Filipino Veterans' Benefits Improvements Act of 2003''.

SEC. 2. RATE OF PAYMENT OF CERTAIN BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.

(a) RATE OF PAYMENT.—Section 107 of title 38, United States Code, is amended—

(1) in the second sentence of subsection (b), by striking ''Payments'' and inserting ''Except as provided in subsection (c), payments''; and

(2) in subsection (c)—

(A) by inserting ''or (b)'' after ''subsection (a)'' the first place it appears; and

(B) by striking ''subsection (a)'' the second place it appears and inserting ''the applicable subsection''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to benefits paid for months beginning on or after that date.

SEC. 3. RATE OF PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF CERTAIN FILIPINO VETERANS.

(a) RATE OF PAYMENT.—Subsection (c) of section 107 of title 38, United States Code, as amended by section 2 of this Act, is further amended by inserting '', and under chapter 13 of this title,'' after ''chapter 11 of this title''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to benefits paid for months beginning on or after that date.

SEC. 4. ELIGIBILITY OF CERTAIN FILIPINO VETERANS FOR DISABILITY PENSION.

(a) ELIGIBILITY.—Section 107 of title 38, United States Code, as amended by this Act, is further amended—

(1) in subsection (a)—

(A) in paragraph (3) of the first sentence, by inserting ''15,'' before ''23,''; and

(B) in the second sentence, by striking ''subsections (c) and (d)'' and inserting ''subsections (c), (d), and (e)''; and

(2) in subsection (b)—

(A) by striking paragraph (2) of the first sentence and inserting the following new paragraph (2):

''(2) chapters 11, 13 (except section 1312(a)), and 15 of this title.''; and

(B) in the second sentence, by striking ''subsection (c)'' and inserting ''subsections (c) and (e)''.

(b) RATE OF PAYMENT.—That section is further amended by adding at the end the following new subsection:

''(e) In the case of benefits under chapter 15 of this title paid by reason of service described in subsection (a) or (b), if—

''(1) the benefits are paid to an individual residing in the United States who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States, the second sentence of the applicable subsection shall not apply; and

''(2) the benefits are paid to an individual residing in the Republic of the Philippines, the benefits shall be paid (notwithstanding any other provision of law) at the rate of $100 per month.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply to benefits for months beginning on or after that date.

SEC. 5. ELIGIBILITY OF FILIPINO VETERANS FOR HEALTH CARE IN THE UNITED STATES.

The text of section 1734 of title 38, United States Code, is amended to read as follows:

''The Secretary, within the limits of Department facilities, shall furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts in the same manner as provided for under section 1710 of this title.''.

SEC. 6. OUTPATIENT HEALTH CARE FOR VETERANS RESIDING IN THE PHILIPPINES.

(a) IN GENERAL.—Subchapter IV of chapter 17 of title 38, United States Code, is amended—

(1) by redesignating section 1735 as section 1736; and

(2) by inserting after section 1734 the following new section 1735:

''§ 1735. Outpatient care and services for World War II veterans residing in the Philippines

''(a) OUTPATIENT HEALTH CARE.—The Secretary shall furnish care and services to veterans of World War II, Commonwealth Army veterans, and new Philippine Scouts for the treatment of the service-connected disabilities and nonservice-connected disabilities of such veterans and scouts residing in the Republic of the Philippines on an outpatient basis at the Manila VA Outpatient Clinic.

''(b) LIMITATIONS.—(1) The amount expended by the Secretary for the purpose of subsection (a) in any fiscal year may not exceed $500,000.

''(2) The authority of the Secretary to furnish care and services under subsection (a) is effective in any fiscal year only to the extent that appropriations are available for that purpose.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by striking the item relating to section 1735 and inserting after the item relating to section 1734 the following new items:

''1735. Outpatient care and services for World War II veterans residing in the Philippines.

''1736. Definitions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

NOTICE

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, JANUARY 9, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that if the motion to adjourn is agreed to later today, the Senate stand in adjournment until 9:30 a.m. on Thursday, January 9; I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and there then be a period of morning business, with Members permitted to speak for up to 10 minutes each, until the hour of 11:30.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.