S. 2566

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2566, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 2569

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2569, a bill to amend section 227 of the Communications Act of 1934 to clarify the prohibition on junk fax transmissions.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

S. CON. RES. 119

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself, Ms. COLLINS, and Mr. BREAUX):

S. 2572. A bill to amend the Older Americans Act of 1965 to provide for mental health screening and treatment services, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, I rise to introduce the Positive Aging Act of 2004 to improve the accessibility and quality of mental health services for our rapidly growing population of older Americans with my colleagues Senators BREAUX and COLLINS. Representatives PATRICK KENNEDY and ILEANA ROS-LEHTINEN are also introducing a companion bill in the House this afternoon.

My colleagues JOHN BREAUX and PATRICK KENNEDY introduced this bill initially to focus on mental health programs, and with constituent input we decided to broaden it to involve the aging community as well. I want to acknowledge our partners from both the mental health and aging organizations who have collaborated with us and been working hard on these issues for a long time.

Our significant success in extending the life span of older adults has created a set of challenges related to the quality of life for American's senior citizens. It is critically important now to focus on making the extra years of life as productive and healthy as possible. This legislation is designed to do just that. It puts mental health services on a par with other primary care services in community settings that are easily accessible to the elderly. I firmly believe we must integrate mental health services with other essential primary care.

The Surgeon General's report on mental health in 1999 told us that disability due to mental illness in the elderly population is fast becoming a major public health problem. Depression, dementia, anxiety, and substance abuse are growing problems among older Americans that result in functional dependence, long-term institutional care and reduced quality of life.

Nearly 20 percent of those over age 55 experience mental illnesses that are not a part of ''normal'' aging, and are all too frequently undetected and untreated. The real tragedy is that we can effectively treat many of these conditions, but in far too many instances we are not making such treatments available. Unrecognized and untreated mental illness among elderly adults can be traced to gaps in training of health professionals, and in our failure to fully integrate mental health screening and treatment with other health services. Far too often physicians and other health professionals fail to recognize the signs and symptoms of mental illness. More troubling, knowledge about effective interventions is simply not accessible to many primary care practitioners.

Research has shown that treatment of mental illnesses can reduce the need for other health services and can improve health outcomes for those with other chronic diseases. These missed opportunities to diagnose and treat mental diseases are taking a huge toll on the elderly and increasing the burden on their families and our health care system.

I know there are a number of reasons for our failure to meet the mental health needs of our seniors. Regrettably, acknowledging and seeking mental health care can be impeded by the stigma associated with mental illness. In addition, Medicare benefit discrimination related to coverage of mental health services continues to be a barrier to appropriate care for the elderly.

Finally, the lack of coverage for prescription drugs in Medicare has until now imposed significant financial burdens on many older Americans. Notwithstanding the addition of a limited Medicare drug benefit, there remains the potential that drugs needed for the treatment of mental illness will be treated unfairly through formulary restrictions, prior authorization, and higher out-of-pocket expenses. We must be especially vigilant in our oversight of this benefit to prevent such discrimination on behalf of the millions of older Americans with mental illnesses.

The bill we are introducing today provides new authorities and resources to the Administration on Aging (AOA) and the Substance Abuse and Mental Health Services Administration (SAMHSA) in the Department of Health and Human Services. For over 35 years, the AOA has provided home and community-based services to millions of older persons through the programs funded under the Older Americans Act. SAMHSA provides block grants to the States and other financial support to develop and apply best practices in the identification and treatment of mental diseases at the community level. Working together these agencies have the potential for strengthening and extending the delivery of mental health services to older Americans.

This legislation focuses on getting mental health services to community sites where primary care and other social services are provided. It will promote the integration of mental health services and the use of evidence-based practice protocols. This approach has the advantage of building on existing structures and programs, and ''mainstreaming'' mental health care for these vulnerable populations.

The bill authorizes AOA to make formula grants to the states for the development and operation of systems for providing mental health screening and treatment services to older Americans. These funds may also be used for outreach programs to increase public awareness of the availability and effectiveness of mental health assessments and treatment. Priority will be given to areas that are medically underserved and include significant numbers of older adults. States will be required to coordinate projects with existing community agencies and voluntary organizations offering services to the targeted populations.

This legislation also establishes new grant authorities at AOA to support development and operation of projects for screening and treating mental illness among seniors in rural and urban areas.

Multidisciplinary teams of mental health professionals relying on evidence-based intervention and treatment protocols are required to deliver these services. To the maximum extent possible, the grants will be coordinated with activities in senior centers, adult day care programs, and naturally occurring retirement centers (NORCs).

This legislation also authorizes two new grant programs at SAMHSA to provide new resources to support mental health screening and treatment services in clinical settings. Primary care sites serving a geriatric patient population such as public or private nonprofit community health centers or private practices would be eligible for one of these new grant programs.

The other program will provide support for geriatric mental health outreach teams to foster collaboration between clinical sites and senior centers, assisted living facilities, and other social or residential service centers.

Since the projects supported by these new grant programs are based in clinical settings, these funds will help to inform primary care practitioners and increase their capabilities in screening and treatment for mental illness. These projects build on existing health care delivery systems and extend their reach to low-income seniors in the community.

I expect these demonstrations will be a catalyst for breaking down the barriers that have limited access to mental health services and retarded the dissemination of evidence-based protocols in the primary care setting. I have specifically set a priority for projects to serve a variety of populations, including racial and ethnic minorities and low-income populations, in both rural and urban areas.

Finally, we have included in this bill several administrative provisions to raise the profile of mental health services for older adults at AOA and SAMHSA. A new Office of Older Adult Mental Health Services is established at AOA to provide a senior level focus for initiatives to improve the access of seniors to appropriate mental health screening and treatment services. At SAMHSA, the bill creates a new deputy director for geriatric mental health services within the Center for Mental Health Services to develop and implement targeted programs for older adults.

There are practical and immediate opportunities to improve mental health care for older Americans. This legislation can help to target our resources on identifying and treating a population at high risk for disability and dependence.

We have an obligation to take what is known about effective treatments and improve the quality of life and overall health of millions of seniors. It's not only the right thing to do; it's also an investment that will return enormous dividends in terms of more economical use of health resources, improved patient outcomes, and a better quality of life for older Americans. 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. 2572

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 ''Positive Aging Act of 2004''.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

SEC. 101. DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

''(44) MENTAL HEALTH SCREENING AND TREATMENT SERVICES.—The term 'mental health screening and treatment services' means patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals that are—

''(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals (including, but not limited to, mood and anxiety disorders, dementias of all kinds, psychotic disorders, and substances and alcohol abuse), relying to the greatest extent feasible on protocols that have been developed—

''(i) by or under the auspices of the Secretary; or

''(ii) by academicians with expertise in mental health and aging; and

''(B) coordinated and integrated with the services of social service, mental health, and health care providers in an area in order to—

''(i) improve patient outcomes; and

''(ii) assure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.''.

SEC. 102. OFFICE OF OLDER ADULT MENTAL HEALTH SERVICES.

Section 301(b) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)) is amended by adding at the end the following:

''(3) The Assistant Secretary shall establish within the Administration an Office of Older Adult Mental Health Services, which shall be responsible for the development and implementation of initiatives to address the mental health needs of older individuals.''.

SEC. 103. GRANTS TO STATES FOR THE DEVELOPMENT AND OPERATION OF SYSTEMS FOR PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LACKING ACCESS TO SUCH SERVICES.

Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) is amended—

(1) in section 303 (42 U.S.C. 3023), by adding at the end the following:

''(f) There are authorized to be appropriated to carry out part F (relating to grants for programs providing mental health screening and treatment services) such sums as may be necessary for fiscal year 2005 and each of the 5 succeeding fiscal years.'';

(2) in section 304(a)(1) (42 U.S.C. 3024(a)(1)), by inserting ''and subsection (f)'' after ''through (d)''; and

(3) by adding at the end the following:

''PART F—MENTAL HEALTH SCREENING AND TREATMENT SERVICES FOR OLDER INDIVIDUALS

''SEC. 381. GRANTS TO STATES FOR PROGRAMS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES FOR OLDER INDIVIDUALS.

''(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for the development and operation of—

''(1) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

''(2) programs to—

''(A) increase public awareness regarding the benefits of prevention and treatment of mental disorders; and

''(B) reduce the stigma associated with mental disorders and other barriers to the diagnosis and treatment of the disorders.

''(b) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this section shall allocate the funds to area agencies on aging to carry out this part in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

''(1) that are medically underserved; and

''(2) in which there are a large number of older individuals.

''(c) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

''(1) coordinate services described in subsection (a) with other community agencies, and voluntary organizations, providing similar or related services; and

''(2) to the greatest extent practicable, integrate outreach and educational activities with existing (as of the date of the integration) health care and social service providers serving older individuals in the planning and service area involved.

''(d) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this part shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in subsection (a).''.

SEC. 104. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN RURAL AREAS.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) by inserting before section 401 (42 U.S.C. 3031) the following:

''TITLE IV—GRANTS FOR EDUCATION, TRAINING, AND RESEARCH'';

and

(2) in part A of title IV (42 U.S.C. 3032 et seq.), by adding at the end the following:

''SEC. 422. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN RURAL AREAS.

''(a) DEFINITION.—In this section, the term 'rural area' means—

''(1) any area that is outside a metropolitan statistical area (as defined by the Director of the Office of Management and Budget); or

''(2) such similar area as the Secretary specifies in a regulation issued under section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

''(b) AUTHORITY.—The Assistant Secretary shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects involving the provision of mental health screening and treatment services to older individuals residing in rural areas.

''(c) DURATION.—Grants made under this section shall be made for 3-year periods.

''(d) APPLICATION.—To be eligible to receive a grant under this section, a public

agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such information and assurances as the Secretary may require, including—

''(1) information describing—

''(A) the geographic area and target population (including the racial and ethnic composition of the target population) to be served by the project; and

''(B) the nature and extent of the applicant's experience in providing mental health screening and treatment services of the type to be provided in the project;

''(2) assurances that the applicant will carry out the project—

''(A) through a multidisciplinary team of licensed mental health professionals;

''(B) using evidence-based intervention and treatment protocols to the extent such protocols are available;

''(C) using telecommunications technologies as appropriate and available; and

''(D) in coordination with other providers of health care and social services (such as senior centers and adult day care providers) serving the area; and

''(3) assurances that the applicant will conduct and submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

''(e) REPORTS.—The Assistant Secretary shall prepare and submit to the appropriate committees of Congress a report that includes summaries of the evaluations and reports required under subsection (d)(3).

''(f) COORDINATION.—The Assistant Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to a grant under this section with programs and activities receiving funds pursuant to grants under sections 381 and 423, and sections 520K and 520L of the Public Health Service Act.''.

SEC. 105. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN NATURALLY OCCURRING RETIREMENT COMMUNITIES IN URBAN AREAS.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3032 et seq.), as amended by section 104, is further amended by adding at the end the following:

''SEC. 423. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN NATURALLY OCCURRING RETIREMENT COMMUNITIES IN URBAN AREAS.

''(a) DEFINITIONS.—In this section:

''(1) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'naturally occurring retirement community' means a residential area (such as an apartment building, housing complex or development, or neighborhood) not originally built for older individuals but in which a substantial number of individuals have aged in place (and become older individuals) while residing in such area.

''(2) URBAN AREA.—The term 'urban area' means—

''(A) a metropolitan statistical area (as defined by the Director of the Office of Management and Budget); or

''(B) such similar area as the Secretary specifies in a regulation issued under section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

''(b) AUTHORITY.—The Assistant Secretary shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects involving the provision of mental health screening and treatment services to older individuals residing in naturally occurring retirement communities located in urban areas.

''(c) DURATION.—Grants made under this section shall be made for 3-year periods.

''(d) APPLICATION.—To be eligible to receive a grant under this section, a public agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such information and assurances as the Secretary may require, including—

''(1) information describing—

''(A) the naturally occurring retirement community and target population (including the racial and ethnic composition of the target population) to be served by the project; and

''(B) the nature and extent of the applicant's experience in providing mental health screening and treatment services of the type to be provided in the project;

''(2) assurances that the applicant will carry out the project—

''(A) through a multidisciplinary team of licensed mental health professionals;

''(B) using evidence-based intervention and treatment protocols to the extent such protocols are available; and

''(C) in coordination with other providers of health care and social services serving the retirement community; and

''(3) assurances that the applicant will conduct and submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

''(e) REPORTS.—The Assistant Secretary shall prepare and submit to the appropriate committees of Congress a report that includes summaries of the evaluations and reports required under subsection (d)(3).

''(f) COORDINATION.—The Assistant Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to grants made under this section with programs and activities receiving funds pursuant to grants made under sections 381 and 422, and sections 520K and 520L of the Public Health Service Act.''.

TITLE II—PUBLIC HEALTH SERVICE ACT AMENDMENTS

SEC. 201. DEMONSTRATION PROJECTS TO SUPPORT INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended—

(1) in subsection (b) of section 520(b) (42 U.S.C. 290bb–31(b))—

(A) by striking ''and'' at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following:

''(16) conduct the demonstration projects specified in section 520K.''.; and

(2) by adding at the end the following:

''SEC. 520K. PROJECTS TO DEMONSTRATE INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall award grants to public and private nonprofit entities for projects to demonstrate ways of integrating mental health services for older patients into primary care settings, such as health centers receiving a grant under section 330 (or determined by the Secretary to meet the requirements for receiving such a grant), other Federally qualified health centers, primary care clinics, and private practice sites.

''(b) REQUIREMENTS.—In order to be eligible for a grant under this section, the project to be carried out by the entity shall provide for collaborative care within a primary care setting, involving psychiatrists, psychologists, and other licensed mental health professionals (such as social workers and advanced practice nurses) with appropriate training and experience in the treatment of older adults, in which screening, assessment, and intervention services are combined into an integrated service delivery model, including—

''(1) screening services by a mental health professional with at least a masters degree in an appropriate field of training;

''(2) referrals for necessary prevention, intervention, follow-up care, consultations, and care planning oversight for mental health and other service needs, as indicated; and

''(3) adoption and implementation of evidence-based protocols, to the extent available, for prevalent mental health disorders, including depression, anxiety, behavioral and psychological symptoms of dementia, psychosis, and misuse of, or dependence on, alcohol or medication.

''(c) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section the Secretary, to the extent feasible, shall ensure that—

''(1) projects are funded in a variety of geographic areas, including urban and rural areas; and

''(2) a variety of populations, including racial and ethnic minorities and low-income populations, are served by projects funded under this section.

''(d) DURATION.—A project may receive funding pursuant to a grant under this section for a period of up to 3 years, with an extension period of 2 additional years at the discretion of the Secretary.

''(e) APPLICATION.—To be eligible to receive a grant under this section, a public or private nonprofit entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) EVALUATION.—Not later than July 31 of each calendar year, the Secretary shall submit to Congress a report evaluating the projects receiving awards under this section for such year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2005 and each fiscal year thereafter.''.

SEC. 202. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.), as amended by section 201, is further amended by adding at the end the following:

''SEC. 520L. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall award grants to public or private nonprofit entities that are community-based providers of geriatric mental health services, to support the establishment and maintenance by such entities of multi-disciplinary geriatric mental health outreach teams in community settings where older adults reside or receive social services. Entities eligible for such grants include—

''(1) mental health service providers of a State or local government;

''(2) outpatient programs of private, nonprofit hospitals;

''(3) community mental health centers meeting the criteria specified in section 1913(c); and

''(4) other community-based providers of mental health services.

''(b) REQUIREMENTS.—To be eligible to receive a grant under this section, an entity shall—

''(1) adopt and implement, for use by its mental health outreach team, evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals (including, but not limited to, mood and anxiety disorders, dementias of all kinds, psychotic disorders, and substance and alcohol abuse), relying to the greatest extent feasible on protocols that have been developed—

''(A) by or under the auspices of the Secretary; or

''(B) by academicians with expertise in mental health and aging;

''(2) provide screening for mental disorders, diagnostic services, referrals for treatment, and case management and coordination through such teams; and

''(3) coordinate and integrate the services provided by such team with the services of social service, mental health, and medical providers at the site or sites where the team is based in order to—

''(A) improve patient outcomes; and

''(B) to assure, to the maximum extent feasible, the continuing independence of older adults who are residing in the community.

''(c) COOPERATIVE ARRANGEMENTS WITH SITES SERVING AS BASES FOR OUTREACH.—An entity receiving a grant under this section may enter into an agreement with a person operating a site at which a geriatric mental health outreach team of the entity is based, including—

''(1) senior centers;

''(2) adult day care programs;

''(3) assisted living facilities; and

''(4) recipients of grants to provide services to senior citizens under the Older Americans Act of 1965,

under which such person provides (and is reimbursed by the entity, out of funds received under the grant, for) any supportive services, such as transportation and administrative support, that such person provides to an outreach team of such entity.

''(d) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section the Secretary, to the extent feasible, shall ensure that—

''(1) projects are funded in a variety of geographic areas, including urban and rural areas; and

''(2) a variety of populations, including racial and ethnic minorities and low-income populations, are served by projects funded under this section.

''(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) COORDINATION.—The Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to a grant under this section with programs and activities receiving funds pursuant to grants under section 520K and sections 381, 422, and 423 of the Older Americans Act of 1965.

''(g) EVALUATION.—Not later than July 31 of each calendar year, the Secretary shall submit to Congress a report evaluating the projects receiving awards under this section for such year.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2005 and each fiscal year thereafter.''.

SEC. 203. DESIGNATION OF DEPUTY DIRECTOR FOR OLDER ADULT MENTAL HEALTH SERVICES IN CENTER FOR MENTAL HEALTH SERVICES.

Section 520 of the Public Health Service Act (42 U.S.C. 290bb–31) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

''(c) DEPUTY DIRECTOR FOR OLDER ADULT MENTAL HEALTH SERVICES IN CENTER FOR MENTAL HEALTH SERVICES.—The Director, after consultation with the Administrator, shall designate a Deputy Director for Older Adult Mental Health Services, who shall be responsible for the development and implementation of initiatives of the Center to address the mental health needs of older adults. Such initiatives shall include—

''(1) research on prevention and identification of mental disorders in the geriatric population;

''(2) innovative demonstration projects for the delivery of community-based mental health services for older Americans;

''(3) support for the development and dissemination of evidence-based practice models, including models to address dependence on, and misuse of, alcohol and medication in older adults; and

''(4) development of model training programs for mental health professionals and care givers serving older adults.''.

SEC. 204. MEMBERSHIP OF ADVISORY COUNCIL FOR THE CENTER FOR MENTAL HEALTH SERVICES.

Section 502(b)(3) of the Public Health service Act (42 U.S.C. 269aa–1(b)(3)) is amended by adding at the end the following:

''(C) In the case of the advisory council for the Center for Mental Health Services, the members appointed pursuant to subparagraphs (A) and (B) shall include representatives of older Americans, their families, and geriatric mental health specialists.''.

SEC. 205. PROJECTS OF NATIONAL SIGNIFICANCE TARGETING SUBSTANCE ABUSE IN OLDER ADULTS.

Section 509(b)(2) of the Public Health Service Act (42 U.S.C. 290bb–2(b)(2)) is amended by inserting before the period the following: '', and to providing treatment for older adults with alcohol or substance abuse or addiction, including medication misuse or dependence''.

SEC. 206 CRITERIA FOR STATE PLANS UNDER COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) IN GENERAL.—Section 1912(b)(4) of the Public Health Service Act (42 U.S.C. 300x–1(b)(4)) is amended to read as follows:

''(4) TARGETED SERVICES TO OLDER INDIVIDUALS, INDIVIDUALS WHO ARE HOMELESS, AND INDIVIDUALS LIVING IN RURAL AREAS.—The plan describes the State's outreach to and services for older individuals, individuals who are homeless, and individuals living in rural areas, and how community-based services will be provided to these individuals.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to State plans submitted on or after the date that is 180 days after the date of enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from New York in introducing the Positive Aging Act, which will help to increase older Americans' access to quality mental health screening and treatment services in community-based care settings.

The legislation we are introducing today is particularly important for States, like Maine, that have a disproportionate number of elderly persons. Maine currently is our Nation's seventh ''oldest'' State. Moreover, our older population will continue to grow in the future and, by the year 2025, one in five Mainers will be over the age of 65.

One of the most daunting public health challenges facing our Nation today is how to increase access to quality mental health services for the more than 44 million Americans with severe, disabling mental disorders that can devastate their lives and the lives of the people around them.

What is often overlooked, however, is the prevalence of mental illness among our Nation's elderly. Studies have shown that more than one in five Americans aged 65 and older—including more than 32,000 Mainers—experience mental illness, and that as many as 80 percent of elderly persons in nursing homes suffer from some kind of mental impairment.

Particularly disturbing is that fact that the mental health needs of older Americans are often overlooked or not recognized because of the mistaken belief that they are a normal part of aging and therefore cannot be treated.

While older Americans experience the full range of mental disorders, the most prevalent mental illness afflicting older people is depression. Ironically, while recent advances have made depression an eminently treatable disorder, only a minority of elderly depressed persons are receiving adequate treatment. Unfortunately, the vast majority of depressed elderly don't seek help. Many simply accept their feelings of profound sadness and do not realize that they are clinically depressed.

Those who do seek help are often underdiagnosed or misdiagnosed, leading the National Institute of Mental Health to estimate that 60 percent of older Americans with depression are not receiving the mental health care that they need. Failure to treat this kind of disorder leads to poorer health outcomes for other medical conditions, higher rates of institutionalization, and increased health care costs.

Untreated depression can even lead to suicide. The sad fact is that Americans over 65 are more likely to commit suicide than any other age group. Among those over 85, the suicide rate is twice the national average. What is particularly disturbing about these statistics is that studies have shown that 40 percent of older people who commit suicide have had a visit with their primary care provider within one week of their death. Seventy percent of these elderly suicide victims had a primary care visit within 30 days of their death.

Fortunately, important research is being done that is helping to develop innovative approaches to improve the delivery of mental health care for older

adults by integrating it into primary care settings. This research demonstrates that older adults are more likely to receive appropriate mental health care if there is a mental health professional on the primary care team, rather than simply referring them to a mental health specialist outside the primary care setting. Multiple appointments with multiple providers in multiple settings simply don't work for older patients who must also cope with concurrent chronic illnesses, mobility problems, and limited transportation options. The research also shows that there is less stigma associated with psychiatric services when they are integrated into general medical care.

The Positive Aging Act builds upon this research and authorizes funding for a range of projects that integrate mental health screening and treatment services into community sites and primary health care settings, including community health centers, senior centers, and assisted living facilities. Moreover, the evidence-based services under this legislation will be provided by interdisciplinary teams of mental health professionals working in collaboration with other providers of health and social services.

Among other provisions, our legislation authorizes the creation of an Office of Older Adult Mental Health Services in the Administration on Aging to develop and implement initiatives to address the mental health needs of older adults. In addition, the Administration on Aging would be authorized to provide grants to States for the development and testing of model mental health delivery systems for the diagnosis and treatment of mental illness and the elderly. It would also be authorized to award demonstration grants to projects targeted to providing screening and mental health services for seniors residing in rural areas, as well as grants to encourage the collaboration between mental health and other health and social services providers in providing screening and treatment services.

The legislation also authorizes the Substance Abuse and Mental Health Services Administration (SAMHSA) to award demonstration grants which would support the integration of evidence-based mental health services by geriatric mental health specialists into primary care settings and support the establishment of community-based mental health treatment outreach teams in settings where older adults reside or receive social services.

The Positive Aging Act will help to promote the mental health and well-being of our older citizens. It is an investment that will return tremendous dividends in terms of improved quality of life, better patient outcomes, and more efficient use of health care dollars. The legislation has been endorsed by the American Association for Geriatric Psychiatry, the National Council on Aging, the American Nurses Association, the American Psychological Association, the American Psychiatric Association and the National Association of Social Workers, and I urge all of our colleagues to join us as cosponsors.

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

S. 2574. A bill to provide for the establishment of the National Institutes of Health, Police, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise today to introduce the NIH Security Act. The National Institutes of Health (NIH) is one of America's most successful investments. NIH saves lives and helps Americans to live longer and live better. Research funded by NIH has made breakthroughs on many different fronts, from cutting edge bioterrorism research to mapping the human genome. Much of the research depends on experts working with hazardous chemicals or biological substances. We must make sure NIH is safe and secure—both to protect important research that may save future lives, and to make sure hazardous materials don't fall into the wrong hands.

The main NIH campus and its satellite facilities contain approximately 3,000 research laboratories—2,500 of which are approved for the use of radioisotopes. NIH has 21 high-containment laboratories and two high-containment animal facilities. And NIH is constructing additional high-containment laboratories in order to tackle the challenging issue of defending the country against bioterrorism.

We count on the NIH Police to protect this national treasure. Yet NIH Police officers are overworked and underpaid. Security at NIH facilities may be at risk because NIH is having trouble recruiting and retraining qualified police officers, and because the Police Department is not authorized to protect all of NIH's facilities.

That's why I am introducing this bill to improve security at NIH by giving the NIH Police the authority they need to do their job and the pay and benefits they deserve for a job well done. This legislation does three things. It establishes a permanent police force at NIH. It expands their jurisdiction to cover all of NIH's campuses. And it gives NIH Police officers the same pay and retirement benefits that other Federal law enforcement officers have.

Historically, NIH Police salaries have been among the lowest for law enforcement officers in the Washington-Metropolitan area. From 1998–2002, the NIH Police had a 70 percent attrition rate. Most officers left for positions in other Federal and local law enforcement agencies that offered better pay and benefits. The constant turnover is having a devastating effect on morale, and it's costing taxpayers hundreds of thousands of dollars in overtime pay and lost training costs. That's because NIH invests in specialized training to make sure their officers are prepared to respond to potential biological, chemical, and nuclear disasters. But other agencies are able to lure these officers away. After spending the money to give their officers the training they need, NIH isn't able to give them the pay and benefits they deserve. My bill will ensure that NIH Police officers are getting the same pay and retirement benefits as other Federal law enforcement officers.

My bill also gives NIH Police officers the authority to carry firearms, serve warrants and conduct investigations on all properties under the custody and control of the NIH. Currently, the NIH Police's jurisdiction is limited to the main campus in Bethesda, leaving thousands of employees and numerous laboratories without their protection. NIH currently employs unarmed security guards at its satellite facilities in Maryland and across the country. These security guards do the best they can, but they don't have the authority to enforce laws, and they aren't as highly trained as the NIH Police.

NIH is serious about security. Dr. Zerhouni, the Director of NIH, fully recognizes the need for a highly quality police force to protect NIH and the surrounding community, and fully supports this legislation. Let's give the NIH Police the resources they need to make sure NIH is safe and secure. This is an important issue that must be addressed. I urge my colleagues to pass this important bill quickly, and I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2574

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 ''NIH Security Act''.

SEC. 2. NATIONAL INSTITUTES OF HEALTH POLICE.

(a) ESTABLISHMENT.—The Director of the National Institutes of Health (in this section referred to as the ''Director of NIH'') shall establish a permanent police force, to be known as the National Institutes of Health Police (in this section referred to as the ''NIH Police''), for the purpose of performing law enforcement, security, and investigative functions for property under the jurisdiction, custody, and control of, or occupied by, the National Institutes of Health.

(b) APPOINTMENT OF OFFICERS.—

(1) IN GENERAL.—The Director of NIH shall appoint a Chief, a Deputy Chief, and such other officers as may be necessary to carry out the purpose of the NIH Police.

(2) OFFICERS ABOVE MAXIMUM AGE.—The Director of NIH may appoint officers of the NIH Police without regard to standard maximum limits of age prescribed under section 3307 of title 5, United States Code. Officers appointed under this paragraph—

(A) may include the Chief and Deputy Chief of the NIH Police;

(B) shall have the same authorities and powers as other officers of the NIH Police;

(C) shall receive the same pay and benefits as other officers of the NIH Police; and

(D) shall not be treated as law enforcement officers for purposes of retirement benefits.

(c) POWERS.—Each officer of the NIH Police may—

(1) carry firearms, serve warrants and subpoenas issued under the authority of the United States, and make arrests without warrant for any offense against the United States committed in the officer's presence, or for any felony cognizable under the laws of the United States, if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

(2) conduct investigations within the United States and its territories for offenses that have been or may be committed on property described in paragraph (1) or (2) of subsection (d); and

(3) protect in any area of the United States or its territories the Director of NIH and other officials, as authorized by the Director of NIH.

(d) JURISDICTION.—Officers of the NIH Police may exercise their powers—

(1) on all properties under the custody and control of the National Institutes of Health;

(2) on other properties occupied by the National Institutes of Health, as determined by the Director of NIH; and

(3) as authorized under paragraphs (2) and (3) of subsection (c).

(e) PAY, BENEFITS, RETIREMENT.—

(1) IN GENERAL.—Subject to subsection (b)(2)(D) and paragraph (2)(A), all officers of the NIH Police appointed under subsection (b) are—

(A) law enforcement officers as that term is used in title 5, United States Code, without regard to any eligibility requirements prescribed by law; and

(B) eligible for all pay and benefits prescribed by law for such law enforcement officers.

(2) PAY; RANKS.—

(A) PAY.—The officers of the NIH Police shall receive the same pay and benefits, as determined by the Director of NIH, as officers who hold comparable positions in the United States Park Police. For purposes of this subparagraph, the Chief of the NIH Police is deemed comparable to the Assistant Chief in the United States Park Police, and the Deputy Chief of the NIH Police is deemed comparable to the Deputy Chief in the United States Park Police.

(B) RANK.—The Chief and Deputy Chief of the NIH Police shall have ranks not lower than a colonel and a lieutenant colonel, respectively. Other ranks and equivalences shall be determined by the Director of NIH or the Director's designee.

By Mrs. BOXER (for herself and Mr. SMITH):

S. 2575. A bill to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to convene regular meetings of, or conduct regular consultations with, Federal, State, tribal and local government officials to provide recommendations on how to carry out those activities; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. BOXER. Mr. President, I am introducing today with my colleague, Senator GORDON SMITH, a bill that addresses an ecological crisis in California and Oregon that quite literally threatens to change the face of our States, as well as others. The beloved oak trees are in grave peril. Thousands of black oak, coastal live oak, tan and Shreve's oak trees—among the most familiar and best loved features of California's landscape—are dying from a disease known as Sudden Oak Death Syndrome (SODS).

Caused by an exotic species of the Phytophthora fungus—the fungus responsible for the Irish potato famine—SODS first struck a small number of tan oaks in Marin County in 1995. Now the disease has spread to other oak species from Big Sur in the south to Humboldt County in the north. The loss of trees is approaching epidemic proportions, with tens of thousands of dead trees appearing in thousands of acres of forests, parks, and gardens. As the trees die, enormous expanses of forest, some adjacent to residential areas, are subject to extreme fire hazards. Dead oak trees near homes significantly increase fire hazards, so residents who built their homes around or among oak trees are in particular danger.

Yet, the spread of the fungus-like pathogen that causes SODS is not limited to oak trees. It has also been found on rhododendron plants in California nurseries, bay trees, wild huckleberry plants and other nursery stock and small fruit trees. Due to genetic similaries, this pathogen potentially endangers Red and Pin oak trees on the East Coast, as well as the Northeast's lucrative commercial blueberry and cranberry industries.

SODS has already had serious economic and environmental impacts. After the initial discovery of the Sudden Oak Death, the U.S. Department of Agriculture (USDA) imposed a quarantine on oak products and some nursery stock in 10 counties in Northern California and Curry County, Oregon. Subsequently, two other counties in Northern California were also put under quarantine. The discovery of the pathogen that causes SODS in two Southern California nurseries in March 2004 led the USDA to impose restrictions on the interstate movement of host and potential host plants—as well as plants within 10 meters of these plants—from all nurseries in California. To date, 17 States and Canada have placed their own restrictions on the importation of California's nursery stock, and some States have banned plants from California altogether.

If left unchecked, SODS could cause major damage to our commercial nurseries, as well the health, productivity and biodiversity of our forests. California is the nursery industry's lead producer of horticultural plants, valued at $2 billion a year. The State's oak woodlands provide shelter, habitat, and food to over 300 wildlife species. They also reduce soil erosion and help moderate extremes in temperature. Not only does SODS put all these benefits at risk, but dead and infected trees from this disease increase the threat of wildfire, threatening our communities.

More needs to be known about the pathogen that causes SODS. Scientists are struggling to better understand SODS, how the disease is transmitted, and what the best treatment options might be. In 2000, the U.S. Forest Service, the University of California, the State Departments of Forestry and Fire Protection, and County Agricultural Commissioners created an Oak Mortality Task Force to help coordinate research, management, monitoring, education, and public policies aimed at addressing SODS. Although we have learned a great deal about SODS since the, adequate Federal support is needed if we are to stop the spread of this disease before it is too late.

That is why I am introducing the Sudden Oak Death Syndrome Control Act of 2004, which is based on legislation I introduced in 2001 and which passed the Senate in 2002. The Sudden Oak Death Syndrome Control Act of 2004 would authorize $44.2 million annually over the next five years for creation of a Sudden Oak Death research and monitoring program, management and treatment activities, fire prevention activities, and education and outreach. The bill would also provide funding for a comprehensive national survey of the fungus-like pathogen that causes SODS and a risk assessment of the threat posed by this pathogen to natural and managed plant resources. Combined with the efforts of state and local officials, this legislation will help to prevent the dire predictions from becoming a terrible reality.

This bill is endorsed by the American Nursery & Landscape Association, the California Association of Nurseries and Garden Centers, the Nursery Growers Association of California, the state, local and private members of the California Oak Mortality Task Force, and the Marin County Board of Supervisors.

I thank Senator SMITH for working with me on this bill and for joining me in introducing it. I urge my colleagues to join us in this effort to help ensure the protection of our nation's commercial nursery industry and precious woodlands.

I ask unanimous consent that letters from these organizations be printed in the RECORD.

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

AMERICAN NURSERY & LANDSCAPE ASSOCIATION,
Washington, DC, June 23, 2004.

Hon. GORDON SMITH,
Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOXER AND SMITH: The American Nursery & Landscape Association is the national trade organization representing nursery growers, landscape professionals, and retail garden centers in the U.S. On behalf of our industry of small and family businesses, we wish to thank you for your work to prepare and introduce legislation to address the current and expected challenges associated with the serious plant pathogen Phytophthora ramorum.

As you well know, the potential risks posed by P. ramorum to American forests, landscape, nurseries, and other agricultural producers necessitate strong federal leadership in such areas as survey and detection, risk mitigation, and research. Your legislative efforts will help to ensure the focus and

funding necessary for a cohesive federal and state cooperative response.

We would like to commend the performance of your staff contacts, Laura Cimo and Matt Hill. Both have been professional, accessible, and open to suggestions toward improving the legislative language in preparation for its introduction.

ANLA is pleased to support your impending legislation, as a critical step toward solving the P. ramorum crisis. Please let us know how ANLA can be of further assistance.

Sincerely,

CRAIG J. REGELBRUGGE,
Senior Director of Government Relations.

CALIFORNIA ASSOCIATION OF NURSERIES AND GARDEN CENTERS,
Sacramento, CA 95834.

Re Sudden Oak Death Syndrome Control Act of 2004.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: We thank you for all of your efforts on the issue of Sudden Oak Death and especially your legislation, the Sudden Oak Death Syndrome Control Act of 2004, which we strongly endorse and support.

As you well know, many states closed their borders to all nursery plants in California after Sudden Oak Death was discovered in a southern California nursery. These blockades have included all plants, even those without the ability to transmit the pathogen, and they have included nurseries that the U.S. Department of agriculture has certified are free of Sudden Oak Death.

Quite clearly, there is much that needs to be learned about Sudden Oak Death so that regulations are based on risk and not on fear. Your much-needed legislation will improve both the research into the pathogen, its role relating to Sudden Oak Death, and the management and treatment of the disease. Significantly, your legislation will compel a ''comprehensive and biologically sound national survey.'' Only by such a rigorous survey can policymakers understand the risk posed by the pathogen. After all, states that have barred California nursery plants may already harbor Sudden Oak Death but without a national survey they have every incentive to avoid even looking for the pathogen.

Again, thank you for drafting this important legislation.

Very truly yours,

ROBERT H. FALCONER,
Executive Vice President.

CALIFORNIA OAK MORTALITY TASK FORCE,
Sacramento, CA, June 24, 20004.

Re Sudden Oak Death Syndrome Control Act of 2004.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: The California Oak Mortality Task Force applauds your efforts to secure federal funding for research, monitoring, regulations, management and educational activities necessitated by Sudden Oak Death (Phytophthora ramorum). Resources are urgently needed to address this aggressive exotic pathogen in California and Oregon and protect other parts of the United States and other countries from becoming infested.

The California Oak Mortality Task Force represents over 75 organizations cooperating to limit the spread of the pathogen that causes Sudden Oak Death, a disease that has killed tens of thousands of tanoak, coast live oak, and black oak in coastal California. The pathogen also infects rhododendron, camellia and huckleberry, important nursery and agricultural plants.

There is much that urgently needs to be done to prevent further damage and protect commerce and natural resources. Some of the highest priorities:

Research to understand how the pathogen spreads, assess the potential for ecological, horticultural and agricultural damage, and improve diagnostic tools and treatments

Regulation enforcement to limit pathogen spread via commodities

Management that includes eradication protocols for new areas, fire prevention treatments for high risk areas, and diagnostic services

Monitoring/surveys to determine extent of damage, distribution and spread

Educatioal programs for professionals, land managers and homeowners to recognize the problem and determine what can be done about it, including Information and explanation of quarantine measures.

The state, local, and private members of the task force support your efforts to address Sudden Oak Death and protect the oak woodlands of the United States. Please contact Lucia Briggs, Coordinator of the CA Oak Mortality Task Force (lbriggs@nature.berkelkey.edu) if we can assist you.

Sincerely,

MARK R. STANLEY,
Chairperson, California Oak Mortality Task Force.

THE BOARD OF SUPERVISORS OF MARIN COUNTY,
San Rafael, CA, June 16, 2004.

Re ''Sudden Oak Death Syndrome Control Act of 2004''—SUPPORT.

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: As President of the Marin County California Board of Supervisors, I write to indicate our strong support of your efforts with regard to the ''Sudden Oak Death Syndrome Control Act of 2004,'' which would authorize $44.2 million for FY2005 through FY2009, as compared to the $14.25 million already authorized for FY2003 through FY2007.

The legislation addresses the ever expanding need for resources for local, state and federal agencies to deal with the economic, environmental and policy impacts created by the infestation of this devastating plant disease. Marin County has lost tens of thousands of trees and has been at the center of this problem for several years as one of the original 12 California Counties placed under state and federal quarantine.

The recent documentation of Sudden Oak Death (SOD) infestation in commercial nurseries in Southern California has elevated the problem. The transmission of the disease across state lines, carried on nursery stock, to a number of states in the southern and eastern United States has triggered multiple state SOD quarantines against California and created enforcement and communication problems nationwide.

Funding increases proposed in the bill would provide much needed improvements in communication and intergovernmental coordination between USDA, APHIS, State Plant Quarantine Officials, California Agricultural Commissioners and Nursery Sock Producers. It would fund a national risk assessment to determine the possible biological and economic impacts of the disease. The bill would also address the need to strengthen domestic quarantine inspections to determine if the disease may be moving into the United States on nursery stock originating from Europe.

The Marin County Board of Supervisors strongly supports your proposed ''Sudden Oak Death Syndrome Control Act of 2004'' and thank you for your continued support in dealing with this critical issue.

Sincerely,

STEVE KINSEY,
President.

By Mr. FEINGOLD:

S. 2576. A bill to establish an expedited procedure for congressional consideration of health care reform legislation; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, today I introduce the Health Care Reform Expedited Procedures Act of 2004, legislation that requires Congress to act on what may be the most pressing domestic policy issue of our time, namely health care reform.

I travel to each of Wisconsin's 72 counties every year to hold town hall meetings. Year after year, the number one issue raised at these Listening Sessions is the same—health care. The failure of our health care system brings people to these meetings in droves. The frustration I hear, the anger and the desperation, have convinced me that we must change the system.

So many people now come to tell me that they used to think government involvement was a terrible idea, but not anymore. Now they tell me that their businesses are being destroyed by health care costs, and they want the government to step in. These costs are crippling our economy just as the Nation is struggling to rebound from the loss of millions of manufacturing jobs.

Our health care system has failed to keep costs in check. Costs are skyrocketing, and there is simply no way we can expect businesses to keep up. So in all too many cases, employers are left to offer sub-par benefits, or to wonder whether they can offer any benefits at all. Employers cannot be the sole provider of health care when these costs are rising faster than inflation.

One option that could help employers, especially small businesses, reduce their health care costs is to have them form health care cooperatives, where employers lower costs by purchasing care as a group. I have introduced a bill in the Senate to make it easier for business to create these cooperatives.

But this legislation certainly isn't the magic bullet that can address the whole problem. We need to come up with more comprehensive ways to address rising costs. In most cases, costs are still passed on to employees, who then face enormous premiums that demand more and more of their monthly income. People tell me that they don't understand how anyone can afford these astronomical premiums, and what can you say to that?

We can say that it's time to move toward universal coverage. I believe we can find a way to make universal coverage work in this country. Universal coverage doesn't mean that we have to copy a system already in place in another country. We can harness our Nation's creativity and entrepreneurial

spirit to design a system that is uniquely American. Universal coverage doesn't have to be defined by what's been attempted in the past. What universal coverage does mean is ending a system where nearly 44 million Americans are uninsured, and where those who are insured are struggling to pay their premiums, struggling to pay for prescription drugs, and struggling to find long term care.

We can't tolerate a system that strands so many Americans without the coverage they need. This system costs us dearly: Even though almost 44 million Americans are uninsured, the United States devotes more of its economy to health care than other industrial countries.

Leaving this many Americans uninsured affects all of us. Those who are insured pay more because the uninsured can't afford to pay their bills. And those bills are exceptionally high, because the uninsured wait so long to see a doctor. The uninsured often live sicker, and die earlier, than other Americans, so they also need a disproportionate amount of acute care.

In 2001 alone, health care providers provided $35 billion worth of uncompensated care. While providers absorb some of those costs, inevitably some of the burden is shifted to other patients. And of course the process of cost-shifting itself generates additional costs.

We are all paying the price for our broken health care system, and it is time to bring about change.

Over the years I have heard many different proposals for how we should change the health care system in this country. Some propose using tax incentives as a way to expand access to health care. Others think the best approach is to expand public programs. Some feel a national single payer health care system is the only way to go.

I don't think we can ignore any of these proposals. We need to consider all of these as we address our broken health care system.

As a former State legislator, I come to this debate knowing that States are coming up with some very innovative solutions to the health care problem. So in addition to the approaches already mentioned, I think we really need to look at what our States are doing, and add to the menu of possibilities an approach under which each State decides the best way to cover its residents.

I favor an American-style health care reform, where we encourage creative solutions to the health care problems facing our country, without using a one-size-fits-all approach. I believe that States have a better idea about what the health care needs of their residents are, and that they understand what types of reform will work best for their state. So I am in favor of a state-based universal health care system, where States, with the Federal Government's help, come up with a plan to make sure that all of their residents have health care coverage.

This approach would achieve universal health care, without the Federal Government dictating to all of the states exactly how to do it. The federal government would provide states with the financial help, technical assistance and oversight necessary to accomplish this goal. In return, a State would have to make sure that every resident has coverage at least as good as that offered in the Federal Employee Health Benefits Program, FEHBP—in other words, at least as good as the health insurance members of Congress have.

States would have the flexibility to expand coverage in phases, and would be offered a number of Federal ''tools'' to choose from in order to help them achieve universal coverage. States could use any number of these tools, or none of them, instead opting for a Federal contribution for a state-based ''single-payer'' system. In addition to designing and implementing a plan to achieve universal care, states would also be required to provide partial funding of these plans. The Federal Government would approve each State plan, and would conduct oversight of the implementation of these plans.

Federal tools that States could choose from to help expand health coverage could include an enhanced Medicaid and SCHIP federal match for expanding coverage to currently uninsured individuals; refundable and advanceable tax credits for the purchase of health insurance for individuals and/or businesses; the establishment of a community-rated health pool, similar to FEHBP, to provide affordable health coverage and expanded choices for those who enroll; and assistance with catastrophic care costs.

States could be creative in the state resources they use to expand health care coverage. For example, a state could use personal and/or employer mandates for coverage, use state tax incentives, create a single-payer system or even join with neighboring states to offer a regional health care plan.

The approach I have set forth would guarantee universal health care, but still leave room for the flexibility and creativity that I believe is necessary to ensure that everyone has access to affordable, quality health care.

As I have noted, there have been a number of interesting proposals to move us to universal health care coverage. While I will be advocating the state-based approach that I have just outlined, others have proposed alternative approaches that certainly merit consideration and debate.

And this brings us to the legislation I am introducing today, because, the reason we haven't reformed our health care system isn't because of a lack of good ideas. The problem is that Congress and the White House refuse to take this issue up. Despite the outcry from businesses, from health care providers, and from the millions who are uninsured, Washington refuses to address the problem in a comprehensive way.

That is why I am introducing this bill. My legislation will force Congress to finally address this issue. It requires the Majority and Minority Leaders of the Senate, as well as the Chairs of the Health, Education, Labor, and Pensions Committee and the Finance Committee, to each introduce a health care reform bill in the first 30 days of the next Congress. If a committee chair fails to introduce a bill within the first month, then the ranking minority party member of the respective committee may introduce a measure that qualifies for the expedited treatment outlined in my bill.

The measures introduced by the Majority Leader and Minority Leader will be placed directly on the Senate Calendar. The measures introduced by the two committee chairs, or ranking minority members, will be referred to their respective committees.

The committees have 60 calendar days not including recesses of 3 days or more to review the legislation. At the end of that time, if either committee fails to report a measure, the bills will be placed directly on the legislative calendar.

If the Majority Leader fails to move to one of the bills, any Member may move to proceed to any qualifying health care reform measure. The motion is not debatable or amendable. If the motion to proceed is adopted, the chamber will immediately proceed to the consideration of a measure without intervening motion, order, or other business, and the measure remains the unfinished business of the Senate until the body disposes of the bill.

Similar procedures are established for House consideration.

I want to emphasize, my bill does not prejudge what particular health care reform measure should be debated. There are many worthy proposals that would qualify for consideration, and this bill does not dictate which proposal, or combination of proposals, should be considered.

But what my bill does do is to require Congress to act.

It has been 10 years since the last serious debate over health care reform was killed by special interests and the soft money contributions they used to corrupt the legislative process. The legislative landscape is now much different. Soft money can no longer be used to set the agenda, and businesses and workers are crying out as never before for Congress to do something about the country's health care crisis.

It has been 10 years since we've had any debate on comprehensive health care reform. We cannot afford any further delay. I urge my colleagues to support the Health Care Reform Expedited Procedures Act of 2004.

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

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

S. 2576

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 ''Health Care Reform Expedited Procedures Act of 2004''.

SEC. 2. SENATE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) INTRODUCTION.—

(1) IN GENERAL.—Not later than 30 calendar-days after the commencement of the first session of a Congress, the chair of the Senate Committee on Health, Education, Labor, and Pensions, the Chair of the Senate Committee on Finance, the Majority Leader of the Senate, and the Minority Leader of the Senate shall each introduce a bill to provide universal health care coverage for the people of the United States.

(2) MINORITY PARTY.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) QUALIFIED BILL.—

(A) IN GENERAL.—In order to qualify as a qualified bill—

(i) the title of the bill shall be ''To reform the system of the United States and to provide insurance coverage for all Americans.''; and

(ii) the bill shall reach the goal of providing health care coverage to 95 percent of Americans within 10 years.

(B) DETERMINATION.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Chair of the Senate Budget Committee, relying on estimates of the Congressional Budget Office, subject to the final approval of the Senate.

(b) REFERRAL.—

(1) COMMITTEE BILLS.—Upon introduction, the bill authored by the Chair of the Senate Committee on Finance shall be referred to that Committee and the bill introduced by the Chair of the Senate Committee on Health, Education, Labor, and Pensions shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of a 60 calendar-day period beginning on the date of referral, the committee is, as of that date, automatically discharged from further consideration of the bill, and the bill is placed directly on the chamber's legislative calendar. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) LEADER BILLS.—The bills introduced by the Senate Majority Leader and the Senate Minority Leader shall, on introduction, be placed directly on the Senate Calendar of Business.

(c) MOTION TO PROCEED.—

(1) IN GENERAL.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice shall first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces his or her intention to offer it.

(2) CONSIDERATION.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) PRIVILEGED AND NONDEBATABLE.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) NO OTHER BUSINESS OR RECONSIDERATION.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) CONSIDERATION OF QUALIFIED BILL.—

(1) IN GENERAL.—If the motion to proceed is adopted, the chamber shall immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the Senate until disposed of. A motion to limit debate is in order and is not debatable.

(2) ONLY BUSINESS.—The qualified bill is not subject to a motion to postpone or a motion to proceed to the consideration of other business before the bill is disposed of.

(3) RELEVANT AMENDMENTS.—Only relevant amendments may be offered to the bill.

SEC. 3. HOUSE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) INTRODUCTION.—

(1) IN GENERAL.—Not later than 30 calendar days after the commencement of the first session of a Congress, the chair of the House Committee on Energy and Commerce, the chair of the House Committee on Ways and Means, the Majority Leader of the House, and the Minority Leader of the House shall each introduce a bill to provide universal health care coverage for the people of the United States.

(2) MINORITY PARTY.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may, within the following 30 days, instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) QUALIFIED BILL.—

(A) IN GENERAL.—To qualify for the expedited procedure under this section as a qualified bill, the bill shall reach the goal of providing healthcare coverage to 95 percent of Americans within 10 years.

(B) DETERMINATION.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Speaker's ruling on a point of order based on a Congressional Budget Office estimate of the bill.

(b) REFERRAL.—

(1) COMMITTEE BILLS.—Upon introduction, the bill authored by the Chair of the House Committee on Energy and Commerce will be referred to that committee and the bill introduced by the Chair of the House Committee on Ways and Means shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of 60 days of consideration beginning on the date of referral, the committee shall be automatically discharged from further consideration of the bill, and the bill shall be placed directly on the Calendar of the Whole House on the State of the Union. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) LEADER BILLS.—The bills introduced by the House Majority Leader and House Minority Leader will, on introduction, be placed directly on the Calendar of the Whole House on the State of the Union.

(c) MOTION TO PROCEED.—

(1) IN GENERAL.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice must first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces his or her intention to offer it.

(2) CONSIDERATION.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) PRIVILEGED AND NONDEBATABLE.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) NO OTHER BUSINESS OR RECONSIDERATION.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) CONSIDERATION OF A QUALIFIED BILL.—

(1) IN GENERAL.—If the motion to proceed is adopted, the chamber will immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the House until disposed of.

(2) COMMITTEE OF THE WHOLE.—The bill will be considered in the Committee of the Whole under the 5-minute rule, and the bill shall be considered as read and open for amendment at any time.

(3) LIMIT DEBATE.—A motion to further limit debate is in order and is not debatable.

(4) RELEVANT AMENDMENTS.—Only relevant amendments may be offered to the bill.

By Ms. STABENOW (for herself and Mrs. HUTCHISON):

S. 2587. A bill to amend title XVIII of the Social Security Act to adjust the amount of payment under the physician fee scheduled for drug administration services furnished to medicare beneficiaries; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce the Ensuring Quality and Access to Cancer Care Act of 2004. I want to thank my colleague, Senator HUTCHISON, for working with me on this critical issue. Regardless of how we feel about the new Medicare law, I believe we all agree that there are legitimate concerns about changes in cancer care reimbursement. Critical services that help patients and their families may be in jeopardy because Medicare reimbursement is scheduled to be drastically cut in 2005.

I believe that these changes will be disruptive to patients' care. It is especially urgent in Michigan, which is ranked fourth in the Nation in number of residents with cancer.

Doctors administer more than 70 percent of all cancer chemotherapy in their offices, but the new Medicare law drastically cuts doctors' reimbursement for drug administration. Changes in the reimbursement system will

mean that doctors will likely be paid dramatically less for chemotherapy. Preliminary estimates indicate that roughly $4.2 billion will be taken out of cancer care in the United States over the next 10 years.

Many critical services are paid for through drug administration reimbursement because they are not covered by Medicare. These include specially-trained oncology nurses and related staff; the handling, storage, and preparation of the toxic chemotherapy agents; and cognitive, nutrition, and support care services that are important indices of quality cancer care.

The result could be fewer and fewer doctors will treat cancer patients, leaving them without access to the best care possible. Furthermore, patients may lose access to vital support services.

Congress clearly recognized that questions related to the impact of the Medicare law on patient access needed to be answered. That's why the Medicare law included a temporary one-year increase in physicians' practice expenses. But access problems will likely emerge in 2005 when the temporary aid and drug reimbursement decrease significantly. And several programs to help oncologists and patients will not begin until 2006.

The ''Ensuring Quality and Access to Cancer Care Act of 2004'' would merely extend the 1-year transitional period built into the law for an additional year. It's a fair compromise so that we have time to answer important questions regarding the impact of the payment reductions. And it will ensure that policy changes do not disrupt patient access to quality cancer care.

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. 2587

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 ''Ensuring Quality and Access to Cancer Care Act of 2004''.

SEC. 2. TRANSITIONAL ADJUSTMENT TO PHYSICIAN FEE SCHEDULE FOR DRUG ADMINISTRATION SERVICES FURNISHED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 303(a)(4)(B)(ii) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2237) is amended by striking ''3 percent'' and inserting ''32 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 303(a)(4) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2237).

By Mr. ALEXANDER (for himself and Ms. LANDRIEU):

S. 2590. A bill to provide a conservation royalty from Outer Continental Shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. Mr. President, today, Senator LANDRIEU and I are introducing the Americans Outdoors Act of 2004, bipartisan legislation that will provide nearly $1.5 billion annually to help Americans in every State enjoy the great American outdoors.

The Americans Outdoors Act would provide a reliable stream of funding by collecting a conservation royalty on revenues from drilling for oil and gas on offshore Federal land. It would use this conservation royalty to fully fund three existing Federal programs: the so-called State side of the Land and Water Conservation Fund, $450 million annually; wildlife conservation, $350 million annually to fully fund that Federal program; and to fully fund urban parks initiatives, another $125 million. It would also provide an additional $500 million each year for coastal impact assistance, including wetlands protection.

In addition, Senator LANDRIEU and I intend to offer an amendment to our legislation that would fully fund the $450 million per year Federal side of the Land and Water Conservation Fund, but only after we have consulted further with our colleagues to develop a consensus.

We offer this legislation because there is nothing more central to the American character than the great American outdoors. We offer it because we want to provide a conservation legacy for the next generation. We believe there is a huge conservation majority in America and in the Senate that will support this legislation.

In 1985, when I was Governor of Tennessee, President Ronald Reagan asked me to chair the President's Commission on American Outdoors. Gilbert Grosvenor, president of the National Geographic Society, was vice-chairman. Patrick Noonan of the Conservation Fund and other distinguished Americans served on the commission. President Reagan himself was an outdoorsman. The President challenged his commission to look ahead for a generation and tell the country how we can have appropriate places to do what we want to do outdoors.

In the report of our commission in 1987, we found many threats to the opportunity to enjoy the outdoors: exotic pollutants, loss of space through urban growth, and disappearance of wetlands. Changing lifestyles and new technology presented new challenges as well as opportunities. Differences in needs and Federal land ownership between the eastern and western States created challenging conflicts to resolve.

In our report we emphasized that most outdoors recreation occurs close to home, near towns or cities where 80 percent of us live. We therefore recommended more land trusts, greenways, city parks and scenic byways.

We suggested that most of this action be accomplished by a prairie fire of local concern rather than by action in Washington, DC, but we did recommend that Congress dedicate at least $1 billion a year from offshore oil and gas drilling revenues to provide a steady, reliable flow of funds to the Land and Water Conservation Fund.

Much of what we recommended has happened and is now law.

But it is now time to build on the commission's work of 20 years ago and look ahead for another generation.

By fully funding State wildlife grants, urban parks and the State programs of the Land and Water Conservation Fund, the Americans Outdoors Act of 2004 will continue that legacy. It will enlarge on the legacy by providing new funds for coastal assistance, including wetlands protection.

It will do so through a new steady stream of funding by creating what I think of as a ''conservation royalty.'' This new conservation royalty is not such a new idea at all. This conservation royalty is modeled after the existing State royalty for onshore oil and gas drilling that was created in the Mineral Lands Leasing Act of 1920. That act gives 50 cents of every dollar from drilling—and in the case of Alaska, 90—as a royalty to the State in which the drilling occurs.

In a similar way, The Americans Outdoors Act of 2004 would create a conservation royalty of about 25 percent for revenues of the funds collected from offshore drilling on Federal lands. Some of the royalty would go to the States where the drilling occurs. More would go to all states for parks, game and fish commissions and projects funded by the Land and Water Conservation Fund.

The idea is very simple: if drilling for oil and gas creates an environmental impact, it is wise to use some of the proceeds to create an environmental benefit. In 2001, the Federal Government received $7.5 billion in oil and gas revenues from federal offshore leases. This revenue comes from the Outer Continental Shelf, which supplies more oil to the United States than any other country, including Saudi Arabia.

Chairman PETER DOMENICI has scheduled a hearing in the Energy and Natural Resources Committee on July 13. In the meantime Senator LANDRIEU and I will continue our discussion with other committee members and other colleagues to create a consensus.

There is at least one piece of unfinished business. At some point in the process, Senator LANDRIEU and I will offer an amendment to our own legislation that will fully fund—at $450 million a year—the Federal side of the Land and Water conservation Fund. It was this provision in earlier legislation that helped to cause the legislation not to be enacted by the Senate. We believe

that by listening to our colleagues and developing more flexibility among states in how these dollars might be spent, we can develop legislation that will pass the Senate.

We are glad to see that Congressmen YOUNG and MILLER have introduced a similar piece of legislation in the House of Representatives. We look forward to working with them.

We are pleased tat already more than two dozen national organizations representing millions of Americans have expressed their support for the American outdoors Act of 2004. These organizations range from the U.S. Conference of Mayors, to the National Wildlife Federation, to Ducks Unlimited, and the City Parks Alliance. We invite all Americans and our colleagues of both political parties, to join with us in providing a legacy for the next generation to enjoy the great American outdoors.

Someone once said that Italy has its art, England its history, and the United States has the great American outdoors. Our magnificent land, as much of our love of liberty, is at the core of our character. It has inspired our pioneer spirit, our resourcefulness and our generosity. Its greatness has fueled our individualism and optimism, and made us believe that anything is possible. It has influenced our music, literature, science and language. It has served as the training ground of our athletes and philosophers, of poets and defenders of American ideals.

That is why there is a conservation majority—a large conservation majority—in the United States of America. That is why, I believe, that when this bill comes to the floor, there will be a large conservation majority in the U.S. Senate.

Mr. President, I ask unanimous consent that a list of the more than two dozen organizations—from the United States Conference of Mayors, to the National Wildlife Federation, to Ducks Unlimited, to the Conservation Council, and many others—representing millions of Americans in support of the Americans Outdoors Act of 2004 be printed in the RECORD.

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

LIST OF AMERICANS OUTDOORS BILL SUPPORTERS

National Governors Association has a policy consistent with this bill. National Governors Association has not formally endorsed the bill.

US Conference of Mayors
National Wildlife Federation
International Association of Fish and Wildlife Agencies
Outdoor Industry Association
American Sportfishing Association
National Wild Turkey Federation
United States Soccer Foundation
United States Soccer Federation
National Marine Manufacturers Association
American Planning Association
American Society of Landscape Architects
Americans for Our Heritage and Recreation
City Parks Alliance
The Conservation Fund
National Association of State Outdoor Recreation Liaison Officers
National Association of State Park Directors
National Council of Youth Sports
National Recreation and Park Association
Outdoor Industry Association
SGMA International
Smart Growth International
Archery Trade Association
Theodore Roosevelt Conservation Partnership
Boone and Crockett Club
The Wildlife Society
AZ Antelope Foundation
AZ Desert Bighorn Sheep Society
AZ Wildlife Conservation Council
BASS/ESPN Outdoors
WILDEATS Enterprises
Association of Native Americans
Trout Unlimited
Ducks Unlimited
PA BASS Federation
Western Clinton Sportsmen's Association
Hodgman, Inc
Federation of Fly Fishers
The Conservation Council
State of Louisiana

Mr. ALEXANDER. 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. 2590

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Americans Outdoors Act of 2004''.

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

TITLE I—DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES

SEC. 101. DISPOSITION.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

''SEC. 9. DISPOSITION OF REVENUES.

''(a) IN GENERAL.—For each of fiscal years 2005 through 2010, the Secretary of the Treasury shall deposit in the Treasury of the United States all qualified outer continental shelf revenues (as defined in section 31(a)).

''(b) TRANSFER FOR CONSERVATION ROYALTY EXPENDITURES.—For each of fiscal years 2005 through 2010, from amounts deposited for the preceding fiscal year under subsection (a), the Secretary of the Treasury shall transfer—

''(1) to the Secretary to make payments under section 31, $500,000,000;

''(2) to the Land and Water Conservation Fund to provide financial assistance to States under section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), $450,000,000;

''(3) to the Federal aid to wildlife restoration fund established under section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) for deposit in the Wildlife Conservation and Restoration Account, $350,000,000; and

''(4) to the Secretary to carry out the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), $125,000,000. ''.

TITLE II—COASTAL IMPACT ASSISTANCE

SEC. 201. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

''SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State; and

''(B) not more than 200 miles from the geographic center of any leased tract.

''(2) COASTAL POPULATION.—The term 'coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

''(3) COASTAL STATE.—The term 'coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

''(4) COASTLINE.—The term 'coastline' has the meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

''(5) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

''(6) LEASED TRACT.—The term 'leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

''(7) POLITICAL SUBDIVISION.—The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

''(8) PRODUCING STATE.—

''(A) IN GENERAL.—The term 'producing State' means a coastal State with a coastal seaward boundary within 200 miles from the geographic center of a leased tract.

''(B) EXCLUSION.—The term 'producing State' does not include a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2002, unless the lease was in production on that date.

''(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States after January 1, 2003, from each leased tract or portion of a leased tract—

''(i) lying—

''(I) seaward of the zone covered by section 8(g); or

''(II) within that zone, but to which section 8(g) does not apply; and

''(ii) the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

''(B) INCLUSIONS.—The term 'qualified Outer Continental Shelf revenues' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

''(C) EXCLUSION.—The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2002, unless the lease was in production on that date.

''(10) TRANSFERRED AMOUNT.—The term 'transferred amount' means the amount transferred to the Secretary under section 9 to make payments to producing States and coastal political subdivisions under this section for a fiscal year.

''(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(1) IN GENERAL.—For each of fiscal years 2005 through 2010, the transferred amount shall be allocated by the Secretary among producing States and coastal political subdivisions in accordance with this section.

''(2) DISBURSEMENT.—In each fiscal year, the Secretary shall, without further appropriation, disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

''(3) ALLOCATION AMONG PRODUCING STATES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the transferred amount shall be allocated to each producing State in the proportion that, for the preceding 5-year period—

''(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

''(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

''(B) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within 200 miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

''(i) the nearest point on the coastline of the producing State; and

''(ii) the geographic center of the leased tract.

''(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 35 percent of the amount allocated under paragraph (3) to the coastal political subdivisions in the producing State.

''(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

''(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the coastal population of the coastal political subdivision; bears to

''(II) the coastal population of all coastal political subdivisions in the producing State;

''(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the number of miles of coastline of the coastal political subdivision; bears to

''(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

''(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

''(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be the average length of the coastline of all other coastal political subdivisions in the State of Louisiana.

''(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

''(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2002, unless the lease was in production on that date.

''(5) NO APPROVED PLAN.—

''(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (3) or (4) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

''(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

''(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

''(c) COASTAL IMPACT ASSISTANCE PLAN.—

''(1) SUBMISSION OF STATE PLANS.—

''(A) IN GENERAL.—Not later than July 1, 2005, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

''(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

''(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

''(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

''(ii) the plan contains—

''(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

''(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

''(III) for each coastal political subdivision that receives an amount under this section—

''(aa) the name of a contact person; and

''(bb) a description of how the coastal political subdivision will use amounts provided under this section;

''(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

''(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

''(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

''(A) developed in accordance with this subsection; and

''(B) submitted to the Secretary for approval or disapproval under paragraph (4).

''(4) PROCEDURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

''(B) EXCEPTION.—For fiscal year 2005, the Secretary shall approve or disapprove a plan submitted under paragraph (1) not later than December 31, 2005.

''(d) AUTHORIZED USES.—

''(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

''(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

''(B) Mitigation of damage to fish, wildlife, or natural resources.

''(C) Planning assistance and the administrative costs of complying with this section.

''(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

''(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.''.

TITLE III—LAND AND WATER CONSERVATION FUND

SEC. 301. APPORTIONMENT OF AMOUNTS AVAILABLE FOR STATE PURPOSES.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) is amended—

(1) in the second sentence of subsection (a), by inserting ''(including facility rehabilitation, but excluding facility maintenance)'' after ''(3) development''; and

(2) by striking subsection (b) and inserting the following:

''(b) APPORTIONMENT AMONG THE STATES.—

''(1) DEFINITION OF STATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term 'State' means—

''(i) each of the States of the United States;

''(ii) the District of Columbia;

''(iii) the Commonwealth of Puerto Rico;

''(iv) the Commonwealth of the Northern Mariana Islands;

''(v) the United States Virgin Islands;

''(vi) Guam; and

''(vii) American Samoa.

''(B) LIMITATION.—For the purposes of paragraph (3), the States referred to in clauses (iii) through (vii) of subparagraph (A)—

''(i) shall be treated collectively as 1 State; and

''(ii) shall each receive an apportionment under that paragraph based on the ratio that—

''(I) the population of the State; bears to

''(II) the population of all the States referred to in clauses (iii) through (vii) of subparagraph (A).

''(2) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out this section, not more than 1 percent of the amounts made available for financial assistance to States for the fiscal year under this Act.

''(3) APPORTIONMENT.—

''(A) IN GENERAL.—Not later than 60 days after the end of the fiscal year, the Secretary shall apportion among the States the amounts remaining after making the deduction under paragraph (2).

''(B) FORMULA.—Subject to paragraph (5), of the amounts described in subparagraph (A) for each fiscal year—

''(i) 60 percent shall be apportioned equally among the States; and

''(ii) 40 percent shall be apportioned among the States based on the ratio that—

''(I) the population of each State (as reported in the most recent decennial census); bears to

''(II) the population of all of the States (as reported in the most recent decennial census).

''(4) LIMITATION.—For any fiscal year, the total apportionment to any 1 State under paragraph (3) shall not exceed 10 percent of the total amount apportioned to all States for the fiscal year.

''(5) STATE NOTIFICATION.—The Secretary shall notify each State of the amount apportioned to the State under paragraph (3).

''(6) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts apportioned to a State under paragraph (3) may be used for planning, acquisition, or development projects in accordance with this Act.

''(B) LIMITATION.—Amounts apportioned to a State under paragraph (3) shall not be used for condemnation of land.

''(7) REAPPORTIONMENT.—

''(A) IN GENERAL.—Any portion of an apportionment to a State under this subsection that has not been paid or obligated by the Secretary by the end of the second fiscal year that begins after the date on which notification is provided to the State under paragraph (5) shall be reapportioned by the Secretary in accordance with paragraph (3).

''(B) LIMITATION.—A reapportionment under this paragraph shall be made without regard to the limitation described in paragraph (4).

''(8) APPORTIONMENT TO INDIAN TRIBES.—

''(A) DEFINITION.—In this paragraph, the term 'Indian tribe'—

''(i) in the case of the State of Alaska, means a Native corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)); and

''(ii) in the case of any other State, has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) APPORTIONMENT.—For the purposes of paragraph (3), each Indian tribe shall be eligible to receive a share of the amount available under paragraph (3) in accordance with a competitive grant program established by the Secretary.

''(C) TOTAL APPORTIONMENT.—The total apportionment available to Indian tribes under subparagraph (B) shall be equal to the amount available to a single State under paragraph (3).

''(D) AMOUNT OF GRANT.—For any fiscal year, the grant to any 1 Indian tribe under this paragraph shall not exceed 10 percent of the total amount made available to Indian tribes under paragraph (3).

''(E) USE OF FUNDS.—Funds received by an Indian tribe under this paragraph may be used for the purposes specified in paragraphs (1) and (3) of subsection (a).

''(9) LOCAL ALLOCATION.—Unless the State demonstrates on an annual basis to the satisfaction of the Secretary that there is a compelling reason not to provide grants under this paragraph, each State (other than the District of Columbia) shall make available, as grants to political subdivisions of the State, not less than 25 percent of the annual State apportionment under this subsection, or an equivalent amount made available from other sources.''.

SEC. 302. STATE PLANNING.

(a) IN GENERAL.—Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) is amended by striking subsection (d) and inserting the following:

''(d) SELECTION CRITERIA; STATE ACTION AGENDA.—

''(1) SELECTION CRITERIA.—Each State may develop priorities and criteria for selection of outdoor conservation and recreation acquisition and development projects eligible for grants under this Act, if—

''(A) the priorities and criteria developed by the State are consistent with this Act;

''(B) the State provides for public participation in the development of the priorities and criteria; and

''(C) the State develops a State action agenda (referred to in this section as a 'State action agenda') that includes the priorities and criteria established under this paragraph.

''(2) STATE ACTION AGENDA.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this subparagraph, the State, in partnership with political subdivisions of the State and Federal agencies and in consultation with the public, shall develop a State action agenda.

''(B) REQUIRED ELEMENTS.—A State action agenda shall—

''(i) include strategies to address broad-based and long-term needs while focusing on actions that can be funded during the 5-year period covered by the State action agenda;

''(ii) take into account all providers of conservation and recreation land in each State, including Federal, regional, and local government resources;

''(iii) include the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for the purposes of this Act;

''(iv) describe the priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects; and

''(v) include a certification by the Governor of the State that ample opportunity for public participation has been provided in the development of the State action agenda.

''(C) UPDATE.—Each State action agenda shall be updated at least once every 5 years.

''(D) CERTIFICATION.—The Governor shall certify that the public has participated in the development of the State action agenda.

''(E) COORDINATION WITH OTHER PLANS.—

''(i) IN GENERAL.—The State action agenda shall be coordinated, to the maximum extent practicable, with other State, regional, and local plans for parks, recreation, open space, fish and wildlife, and wetland and other habitat conservation.

''(ii) RECOVERY ACTION PROGRAMS.—

''(I) IN GENERAL.—The State shall use recovery action programs developed by urban local governments under section 1007 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2506) as a guide to the conclusions, priorities, and action schedules contained in the State action agenda.

''(II) REQUIREMENTS FOR LOCAL PLANNING.—To minimize the redundancy of local outdoor conservation and recreation efforts, each State shall provide that, to the maximum extent practicable, the findings, priorities, and implementation schedules of recovery action programs may be used to meet requirements for local outdoor conservation and recreation planning that are conditions for grants under the State action agenda.

''(F) COMPREHENSIVE STATEWIDE OUTDOOR RECREATION PLAN.—A comprehensive statewide outdoor recreation plan developed by a State before the date that is 5 years after the date of enactment of this subparagraph shall remain in effect in the State until a State action agenda is adopted under this paragraph, but not later than 5 years after the date of enactment of that Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(e)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''or State action agenda'' after ''State comprehensive plan''; and

(B) in paragraph (1), by inserting ''or State action agenda'' after ''comprehensive plan''.

(2) Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)) is amended in the last proviso of the first paragraph by striking ''existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''.

(3) Section 102(a)(2) of the National Historic Preservation Act (16 U.S.C. 470b(a)(2)) is amended by striking ''comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''.

(4) Section 6(a) of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–17(a)) is amended by striking ''State comprehensive plan developed pursuant to subsection 5(d) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required

by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''.

(5) Section 8(a) of the National Trails System Act (16 U.S.C. 1247(a)) is amended in the first sentence—

(A) by inserting ''or State action agendas'' after ''comprehensive statewide outdoor recreation plans''; and

(B) by inserting ''of 1965 (16 U.S.C. 460*l*–4 et seq.)'' after ''Fund Act''.

(6) Section 11(a)(2) of the National Trails System Act (16 U.S.C. 1250(a)(2)) is amended by striking ''(relating to the development of Statewide Comprehensive Outdoor Recreation Plans)'' and inserting ''(16 U.S.C. 460*l*–8)''.

(7) Section 11 of the Wild and Scenic Rivers Act (16 U.S.C. 1282) is amended—

(A) in subsection (a)—

(i) by inserting ''or State action agendas'' after ''comprehensive statewide outdoor recreation plans''; and

(ii) by striking ''(78 Stat. 897)'' and inserting ''(16 U.S.C. 460*l*–4 et seq.)''; and

(B) in subsection (b)(2)(B), by striking ''(relating to the development of statewide comprehensive outdoor recreation plans)'' and inserting ''(16 U.S.C. 460*l*–8)''.

(8) Section 206(d) of title 23, United States Code, is amended—

(A) in paragraph (1)(B), by striking ''statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''; and

(B) in paragraph (2)(D)(ii), by striking ''statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda that is required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''.

(9) Section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(9)) is amended by striking ''statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended'' and inserting ''comprehensive statewide outdoor recreation plans or State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8)''.

SEC. 303. ASSISTANCE TO STATES FOR OTHER PROJECTS.

Section 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(e)) is amended—

(1) in paragraph (1), by striking '', but not including incidental costs relating to acquisition''; and

(2) in paragraph (2), by inserting before the colon the following: ''or to enhance public safety in a designated park or recreation area''.

SEC. 304. CONVERSION OF PROPERTY TO OTHER USE.

Section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)) is amended—

(1) by striking ''(3) No property'' and inserting the following:

''(3) CONVERSION OF PROPERTY TO OTHER USE.—

''(A) IN GENERAL.—No property''; and

(2) by striking the second sentence and inserting the following:

''(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall approve a conversion under subparagraph (A) if—

''(i) the State demonstrates that there is no other prudent or feasible alternative;

''(ii) the property no longer meets the criteria in the comprehensive statewide outdoor recreation plan or State action agenda for an outdoor conservation and recreation facility because of changes in demographics; or

''(iii) the property must be abandoned because of environmental contamination that endangers public health or safety.

''(C) CONDITIONS.—A conversion under subparagraph (A) shall satisfy any conditions that the Secretary determines to be necessary to ensure the substitution of other conservation or recreation property that is—

''(i) of at least equal fair market value;

''(ii) of reasonably equivalent usefulness and location; and

''(iii) consistent with the comprehensive statewide outdoor recreation plan or State action agenda.''.

SEC. 305. WATER RIGHTS.

Title I of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.) is amended by adding at the end the following:

''SEC. 14. WATER RIGHTS.

''Nothing in this title—

''(1) invalidates, preempts, or modifies any Federal or State water law or an interstate compact relating to water, including water quality and disposal;

''(2) alters the rights of any State to an appropriated share of the water of any body of surface water or groundwater, as established by interstate compacts entered into, legislation enacted, or final judicial allocations adjudicated before, on, or after the date of enactment of this Act; or

''(3) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.''.

TITLE IV—CONSERVATION AND RESTORATION OF WILDLIFE

SEC. 401. PURPOSES.

The purposes of this title are—

(1) to ensure adequate funding of the program established under the amendments to the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) enacted by title IX of H.R. 5548 of the 106th Congress, as enacted by section 1(a)(2) of Public Law 106–553 (114 Stat. 2762, 2762A–118); and

(2) to ensure the conservation and sustainability of fish and wildlife to provide and promote greater hunting, angling, and wildlife viewing opportunities.

SEC. 402. DEFINITIONS.

Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) ACCOUNT.—The term 'Account' means the Wildlife Conservation and Restoration Account established by section 3(a)(2).'';

(3) by inserting after paragraph (2) (as redesignated by paragraph (1)) the following:

''(3) INDIAN TRIBE.—The term 'Indian tribe'—

''(A) in the case of the State of Alaska, means a Native corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)); and

''(B) in the case of any other State, has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).'';

(4) in paragraph (6) (as redesignated by paragraph (1)), by striking ''including fish'' and inserting ''(including, for purposes of section 4(d), fish)''; and

(5) in paragraph (10) (as redesignated by paragraph (1)), by striking ''includes the wildlife conservation and restoration program and''.

SEC. 403. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(1) by striking ''SEC. 3. (a)(1) An'' and inserting the following:

''SEC. 3. FEDERAL AID TO WILDLIFE RESTORATION FUND.

''(a) IN GENERAL.—

''(1) FEDERAL AID TO WILDLIFE RESTORATION FUND.—An''; and

(2) in subsection (a)—

(A) in paragraph (1), by striking ''Federal aid to wildlife restoration fund'' and inserting ''Federal Aid to Wildlife Restoration Fund''; and

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

''(2) WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.—

''(A) ESTABLISHMENT.—There is established in the fund a subaccount to be known as the 'Wildlife Conservation and Restoration Account'.

''(B) FUNDING.—Amounts transferred to the fund for a fiscal year under section 9(b)(3) of the Outer Continental Shelf Lands Act—

''(i) shall be deposited in the Account; and

''(ii) shall be available, without further appropriation, to carry out State wildlife conservation and restoration programs under section 4(d).''.

SEC. 404. APPORTIONMENT TO INDIAN TRIBES.

(a) IN GENERAL.—Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(1) by redesignating the first subsection (c) as subsection (e); and

(2) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) APPORTIONMENT TO DISTRICT OF COLUMBIA, PUERTO RICO, TERRITORIES, AND INDIAN TRIBES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall apportion from amounts available in the Account for the fiscal year—

''(i) to each of the District of Columbia and the Commonwealth of Puerto Rico, an amount equal to not more than ½ of 1 percent of amounts available in the Account;

''(ii) to each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands, a sum equal to not more than ¼ of 1 percent of amounts available in the Account; and

''(iii) to Indian tribes, an amount equal to not more than 2¼ percent of amounts available in the Account, of which—

''(I) ⅓ shall be apportioned based on the ratio that the trust land area of each Indian tribe bears to the total trust land area of all Indian tribes; and

''(II) ⅔ shall be apportioned based on the ratio that the population of each Indian tribe bears to the total population of all Indian tribes.

''(B) MAXIMUM APPORTIONMENT TO INDIAN TRIBES.—For each fiscal year, the amounts apportioned under subparagraph (A)(iii) shall be adjusted proportionately so that no Indian tribe is apportioned a sum that is more than 5 percent of the amount available for apportionment under subparagraph (A)(iii) for the fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(c)(2)) is amended by striking ''sections 4(d) and (e) of this Act'' and inserting ''subsection (c) and (d) of section 4''.

(2) Section 4(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(b)) is

amended by striking ''subsection (c)'' and inserting ''subsection (e)''.

(3) Section 4(d) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(d)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively, and indenting the subclauses appropriately;

(ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(iii) by striking ''(1) Any State'' and inserting the following:

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—Any State'';

(iv) by striking ''To apply'' and inserting the following:

''(B) PLAN.—To apply'';

(v) in subparagraph (A) (as designated by clause (iii))—

(I) by inserting ''or Indian tribe'' before ''may apply''; and

(II) by striking ''develop a program'' and inserting the following: ''develop a program for the conservation and restoration of species of wildlife identified by the State'';

(vi) in subparagraph (B) (as designated by clause (iv))—

(I) in the matter preceding clause (i) (as redesignated by clause (ii)), by inserting ''or Indian tribe'' before ''shall submit''; and

(II) in clause (i) (as redesignated by clause (ii)), by inserting ''or Indian tribe'' after ''State'';

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

(viii) in subparagraph (C) (as redesignated by clause (vii))—

(I) in the matter preceding clause (i), by inserting ''a State or Indian tribe shall'' before ''develop and begin'';

(II) in clause (i), by inserting ''or Indian tribe'' before ''deems appropriate'';

(III) in clauses (ii), (iii), (iv), and (vii), by striking ''paragraph (1)'' and inserting ''subparagraph (A)'';

(IV) in clause (vi)—

(aa) by striking ''State wildlife conservation strategy'' and inserting ''wildlife conservation strategy of the State or Indian tribe''; and

(bb) by striking the semicolon at the end and inserting ''; and''; and

(V) in clause (vii), by inserting ''by'' after ''feasible'';

(B) in paragraph (2), by inserting ''or Indian tribe'' after ''State'';

(C) in paragraph (3), by inserting ''or Indian tribe'' after ''State'' each place it appears; and

(D) in paragraph (4)—

(i) in subparagraph (A), by striking ''State's wildlife conservation and restoration program'' each place it appears and inserting ''wildlife conservation and restoration program of a State or Indian tribe''; and

(ii) in subparagraph (B)—

(I) by inserting ''or Indian tribe'' after ''each State''; and

(II) by striking ''State's wildlife conservation and restoration program'' and inserting ''wildlife conservation and restoration program of a State or Indian tribe''.

(4) Section 8(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g(b)) is amended by striking ''section 4(c)'' and inserting ''section 4(e)''.

(5) Section 10 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A), by inserting ''or obligated'' after ''used''; and

(ii) in subparagraph (B), by inserting ''or obligated'' after ''used''; and

(B) by striking ''section 4(c)'' each place it appears and inserting ''section 4(e)''

SEC. 405. NO EFFECT ON PRIOR APPROPRIATIONS.

Nothing in this title or any amendment made by this title applies to or otherwise affects the availability or use of any amounts appropriated before the date of enactment of this Act.

TITLE V—URBAN PARK AND RECREATION RECOVERY PROGRAM

SEC. 501. EXPANSION OF PURPOSE OF URBAN PARK AND RECREATION RECOVERY ACT OF 1978 TO INCLUDE DEVELOPMENT OF NEW AREAS AND FACILITIES.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2502) is amended in the first sentence by striking ''recreation areas, facilities,'' and inserting ''recreation areas and facilities, the development of new recreation areas and facilities (including acquisition of land for that development),'' .

SEC. 502. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2503) is amended—

(1) by striking ''When used in this title the term—'' and inserting ''In this title:'';

(2) by redesignating paragraphs (1), (2), and (3) of subsection (d) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(3) by redesignating subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k) as paragraphs (9), (10), (4), (1), (8), (6), (3), (12), (7), (13), and (5), respectively, and moving the paragraphs to appear in numerical order;

(4) in each of paragraphs (1), (3), (4), (5), (6), (7), (8), (9), (10), (12), and (13) (as redesignated by paragraph (3))—

(A)(i) by inserting ''_____.—The term'' before the first quotation mark; and

(ii) by inserting in the blank the term that is in quotations in each paragraph, respectively; and

(B) by capitalizing the first letter of the term as inserted in the blank under subparagraph (A)(ii);

(5) in each of paragraphs (1), (3), (4), (6), (7), (8), (9), (10), and (12) (as redesignated by paragraph (3)), by striking the semicolon at the end and inserting a period;

(6) in paragraph (13) (as redesignated by paragraph (3)), by striking ''; and'' at the end and inserting a period;

(7) by inserting after paragraph (1) (as redesignated by paragraph (3)) the following:

''(2) DEVELOPMENT GRANT.—

''(A) IN GENERAL.—The term 'development grant' means a matching capital grant made to a unit of local government to cover costs of development, land acquisition, and construction at 1 or more existing or new neighborhood recreation sites (including indoor and outdoor recreational areas and facilities, support facilities, and landscaping).

''(B) EXCLUSIONS.—The term 'development grant' does not include a grant made to pay the costs of routine maintenance or upkeep activities.'';

(8) in paragraph (5) (as redesignated by paragraph (3)), by inserting ''the Commonwealth of'' before ''Northern Mariana Islands''; and

(9) by inserting after paragraph (10) (as redesignated by paragraph (3)) the following:

''(11) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.''.

SEC. 503. ELIGIBILITY.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2504) is amended by striking subsection (a) and inserting the following:

''(a) ELIGIBILITY FOR ASSISTANCE.—

''(1) DEFINITION OF GENERAL PURPOSE LOCAL GOVERNMENT.—For the purpose of determining eligibility for assistance under this title, the term 'general purpose local government' includes—

''(A) any political subdivision of a metropolitan, primary, or consolidated statistical area, as determined by the most recent decennial census;

''(B) any other city, town, or group of 1 or more cities or towns within a metropolitan statistical area described in subparagraph (A) that has a total population of at least 50,000, as determined by the most recent decennial census; and

''(C) any other county, parish, or township with a total population of at least 250,000, as determined by the most recent decennial census.

''(2) SELECTION.—The Secretary shall award assistance to general purpose local governments under this title on the basis of need, as determined by the Secretary.''.

SEC. 504. GRANTS.

Section 1006(a) of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2505(a)) is amended—

(1) in the first sentence, by striking ''rehabilitation and innovative'';

(2) in paragraph (1), by striking ''rehabilitation and innovation''; and

(3) in paragraph (2), by striking ''rehabilitation or innovative''.

SEC. 505. RECOVERY ACTION PROGRAMS.

Section 1007(a) of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2506(a)) is amended—

(1) in the first sentence, by inserting ''development,'' after ''commitments to ongoing planning,''; and

(2) in paragraph (2), by inserting ''development and'' after ''adequate planning for''.

SEC. 506. STATE ACTION INCENTIVES.

Section 1008 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2507) is amended—

(1) in the first sentence, by inserting ''(a) IN GENERAL.—'' before ''The Secretary is authorized''; and

(2) by striking the last sentence of subsection (a) (as designated by paragraph (1)) and inserting the following:

''(b) COORDINATION WITH LAND AND WATER CONSERVATION FUND ACTIVITIES.—

''(1) IN GENERAL.—The Secretary and general purpose local governments are encouraged to coordinate the preparation of recovery action programs required by this title with comprehensive statewide outdoor recreation plans or State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) (including by allowing flexibility in preparation of recovery action programs so that those programs may be used to meet State and local qualifications for local receipt of grants under that Act or State grants for similar purposes or for other conservation or recreation purposes).

''(2) CONSIDERATIONS.—The Secretary shall encourage States to consider the findings, priorities, strategies, and schedules included in the recovery action programs of the urban localities of the States in preparation and updating of comprehensive statewide outdoor recreation plans or State action agendas in accordance with the public participation and citizen consultation requirements of section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(d)).''.

SEC. 507. CONVERSION OF RECREATION PROPERTY.

Section 1010 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2509) is amended to read as follows:

''SEC. 1010. CONVERSION OF RECREATION PROPERTY.

''(a) IN GENERAL.—Except as provided in subsection (b), no property developed, acquired, improved, or rehabilitated using funds from a grant under this title shall, without the approval of the Secretary, be converted to any purpose other than a public recreation purpose.

''(b) APPROVAL.—

''(1) IN GENERAL.—The Secretary shall approve the conversion of property under subsection (a) to a purpose other than a public recreation purpose only if the grant recipient demonstrates that no prudent or feasible alternative exists.

''(2) APPLICABILITY.—Paragraph (1) applies to property that—

''(A) is no longer viable for use as a recreation facility because of changes in demographics; or

''(B) must be abandoned because of environmental contamination or any other condition that endangers public health or safety.

''(c) CONDITIONS.—Any conversion of property under this section shall satisfy such conditions as the Secretary considers necessary to ensure the substitution for the property of other recreation property that is—

''(1) at a minimum, equivalent in fair market value, usefulness, and location; and

''(2) subject to the recreation recovery action program of the grant recipient that is in effect as of the date of the conversion of the property.''.

SEC. 508. TREATMENT OF TRANSFERRED AMOUNTS.

Section 1013 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2512) is amended to read as follows:

''SEC. 1013. FUNDING.

''(a) TREATMENT OF AMOUNTS TRANSFERRED FROM GET OUTDOORS ACT FUND.—

''(1) IN GENERAL.—Amounts transferred to the Secretary under section 9(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(b)(4)) for a fiscal year shall be available to the Secretary, without further appropriation, to carry out this title.

''(2) UNPAID AND UNOBLIGATED AMOUNTS.—Any amount described in paragraph (1) that is not paid or obligated by the Secretary before the end of the second fiscal year beginning after the first fiscal year in which the amount is made available under paragraph (1) shall be reapportioned by the Secretary among grant recipients under this title.

''(b) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out this section, not more than 4 percent of the amounts made available to the Secretary for the fiscal year under subsection (a).

''(c) LIMITATIONS ON ANNUAL GRANTS.—After making the deduction under subsection (b), of the amounts made available for a fiscal year under subsection (a)—

''(1) not more than 10 percent may be used for innovation grants under section 1006;

''(2) not more than 3 percent may be used for grants for the development of local park and recreation recovery action programs under subsections (a) and (c) of section 1007; and

''(3) not more than 15 percent, in the aggregate, may be provided in the form of grants for projects in any 1 State.

''(d) LIMITATION ON USE FOR GRANT ADMINISTRATION.—The Secretary shall establish a limit on the percentage, not to exceed 25 percent, of any grant under this title that may be used for grant and program administration.''.

SEC. 509. REPEAL.

Sections 1014 and 1015 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2513, 2514) are repealed.

Ms. LANDRIEU. Mr. President, I am pleased to join my colleague Senator ALEXANDER as we introduce this very significant conservation legislation. The junior Senator from Tennessee has been a long-time effective advocate for the environment and for conservation, not only in his own State of Tennessee but for our Nation.

The legislation we introduce today is a new, enhanced version of a piece of legislation that was introduced several years ago. We believe it is a very promising approach to launch one of the most significant conservation efforts ever considered by Congress. The American Outdoors Act is a landmark multiyear commitment to conservation programs directly benefiting all 50 States and hundreds of local communities. It creates a conservation royalty derived from the production of oil and gas on the Outer Continental Shelf and directs it toward the restoration of coastal wetlands, preservation of wildlife habitat, and it helps build and maintain local and State parks for our children, our children's children, for generations to come.

By enacting this legislation, we will make the most significant commitment of Federal resources to conservation ever and ensure a positive legacy of protecting and enhancing critical wildlife habitat, estuaries, marshlands, mountain ranges, open green spaces, and expanded recreational opportunity for Americans today and generations to come. The legislation builds on a great and notable effort made during the 106th Congress that was supported by Governors, mayors, and a coalition of over 5,000 organizations throughout the country. Unfortunately, despite our bipartisan and very deep and widespread support, our efforts were cut short before a final bill could be signed into law. Instead, a commitment was made by those who opposed the legislation last time to guarantee funding for these programs. And unfortunately, we all know the story and the outcome of those promises.

As we have painfully witnessed since then, these programs have not only been reduced, some of them have been eliminated completely, and are terribly underfunded in terms of the critical needs that are presented to us today.

What has happened is exactly what those of us who initiated the effort always anticipated. Each of these significant programs has been shortchanged and a number of them have been left out altogether or forced to compete with each other for Federal resources.

The legislation we are introducing today provides reliable, significant, and steady funding for the urgent and worthy conservation and outdoor recreation needs of our states and rapidly growing urban areas. What makes more sense than to take a portion of revenues from a depleting capital asset of the Nation—offshore Federal oil and gas resources—and reinvest them into sustaining the natural resources of our Nation: wetlands; parks and recreation areas and wildlife.

The Americans Outdoors Act dedicates assured funding for four distinct programs and honors promises made long ago to the American people. The four programs include:

Coastal impact assistance—$500 million to oil and gas producing coastal States to mitigate the various impacts of States that serve as the ''platform'' for the crucial development of Federal offshore energy resources from the Outer Continental Shelf as well as provide for wetland restoration. This program merely acknowledges the impacts to and contribution of States that are providing the energy to run our country's economy. The Outer Continental Shelf supplies 25 percent of our Nation's oil consumption, more than any other country including Saudi Arabia, with the promise of more, expected to reach 40 percent by 2008. Since this frontier was officially opened to significant oil and gas exploration in 1953, no single region has contributed as much to the nation's energy production as the OCS. The OCS accounts for more than 25 percent of our Nation's natural gas and oil production. With annual returns to the Federal Government averaging $5 billion annually, no single area has contributed as much to the Federal Treasury as the OCS. In fact, since 1953, the OCS has contributed $140 billion to the U.S. Treasury. Allocation to States would be based on their proximity to production. Thirty-five percent of the State's allocation would be shared with coastal political subdivisions based on a formula of 50 percent proximity to production, 25 percent miles of coastline and 25 percent coastal population;

$450 million for the State side of the Land and Water Conservation Fund, LWC, to provide stable funding to States for the planning and development of State and local parks and recreation facilities. The allocation to States would be 60 percent equally among all 50 States and 40 percent based on relative population. This program provides greater revenue certainty for State and local governments to help them meet their recreational needs through recreational facility development and resource protection—all under the discretion of State and local authorities while protecting the rights of private property owners;

Wildlife conservation, education and restoration—$350 million is allocated to all 50 States through the successful program of Pittman-Robertson for the conservation of nongame and game species, with the principal goal of preventing species from becoming endangered or listed under the Endangered Species Act. By taking steps now to prevent species from becoming endangered we are able to not only conserve the significant cultural heritage of wildlife enjoyment for the people of

this country, but also avoid the substantial costs associated with recovery for endangered species. Allocations to States would be based on a formula of ⅔ relative population and ⅓ relative land area; and

The Urban Parks and Recreation Recovery Program, UPARR—$125 million in the form of matching grants, 70 percent to provide direct assistance to our cities and towns so that they can focus on the needs of their populations within the more densely inhabited areas around the country where there are fewer green-spaces, playgrounds and soccer fields for our youth.

I would also like to acknowledge our interest in several programs that are not part of this initial package but will be considered as the bill moves through the process. For example, the Federal side of the Land and Water Conservation Fund which focuses primarily on Federal land acquisition. The goal of the Federal side of the LWCF was to share a significant portion of revenues from offshore development with States to provide for protection and public use of the natural environment. It is our intention to discuss this program with our colleagues on the Senate Energy and Natural Resources Committee with the goal of developing a compromise that will garner broad support. In addition, other worthy programs that are not part of the legislation we are introducing today but ideally would be part of a larger more comprehensive effort include Historic Preservation, Payment in Lieu of Taxes, PILT, and the Forest Legacy program.

While we confront a time of war, budget deficits and a struggling economy, setting aside a portion of oil and gas royalties to our states and localities for initiatives such as outdoor spaces or recreation facilities for our children to play could not be more crucial. Programs such as the State side of the Land and Water Conservation Fund are in fact the economic stimulus that our States and cities need in these times. The time has come to take the proceeds from a non-renewable resource for the purpose of reinvesting a portion of these revenues in the conservation and enhancement of our renewable resources. To continue to do otherwise, as we have over the last 50 years, is fiscally irresponsible.

As I said, the legislation we introduce today, therefore, provides a reliable, significant, and steady stream of funding that cannot be manipulated or tampered with at the whim of this or that, but will be there for conservation efforts that our local communities and States can count on to provide this great legacy and heritage for our grandchildren.

What makes more sense than taking a portion of the offshore oil and gas revenues that have generated almost $130 billion since the first well was drilled off of our shore on the Continental Shelf almost 100 years ago? What would make more sense than taking a small portion of that money and giving it back to the environment, back to our mountain ranges, to our marshes, to our coastal areas, protecting and preserving our great land for generations to come? The American Outdoors Act does exactly that.

It dedicates and assures funding for four distinct programs: Coastal impact assistance, of which Louisiana and other coastal States would benefit. Of course, we are proud to serve as oil and gas producers, helping us secure our energy independence from foreign sources, providing much critical feedstock, if you will, for our energy industry in the State, and expanding our economic opportunities. Because we produce so much oil and gas, we would deserve help with our vanishing coastline.

In addition, the other segment of this bill would fund the Land and Water Conservation Fund State side. As the Senator from Tennessee noted, he and I are firmly committed to also providing support and full funding for the Federal side of land and water, as this bill moves through the process.

Wildlife conservation, education, and restoration would be fully funded. That helps all of our States. The Urban Parks and Recreation Program, which has been so critical for quality-of-life issues and economic development in our cities, in our suburbs, our urban centers, would also be funded.

Time is not on our side. While other issues might be able to wait and other issues could maybe be funded gradually over time, for every month we delay, for every year we delay, we lose acres and acres, miles and miles of land we will never be able to recover.

Louisiana itself is literally washing away. We have lost the size of the State of Rhode Island off our coast in the last 100 years. If some foreign country attacked our country and tried to take a portion of land away from us, we would fight with every strength and every tool and every resource available. But we stand here literally in some ways twiddling our thumbs while this land is washed away into the Gulf of Mexico. And not just any land but very productive land and very necessary land, not just for Louisiana but for the entire United States.

I close with a quote from Teddy Roosevelt because it is appropriate. He was a great conservation President. Over 100 years ago he started many programs. I love taking my children to Theodore Roosevelt Island. We ride our bikes over there. I love telling them the story of Teddy Roosevelt.

I explain many stories about what he did, hunting in Louisiana, the history of the black bear, et cetera.

In his autobiography he wrote of his experiences in Coastal Louisiana:

> And to lose the chance to see frigate birds soaring in circles above the storm or, a file of pelicans winging their way homeward across the crimson afterglow of the sunset, or a myriad of terns flashing in the bright light of midday as they hover in a shifting maze above the beach, why, the loss is like the loss of a gallery of masterpieces of the artists of old time.

This is what he said when he recalled his trip to Breton Island Sound, the second of over 540 national wildlife heritage areas designated in the last 100 years. The land in this picture is gone. It no longer exists because we have twiddled our thumbs for almost 100 years.

Today we introduce a bill to stop us from twiddling our thumbs, direct our resources, get serious about conservation, serious about the taxpayer money, and do something with it that the overwhelming majority of the taxpayers would stand up and cheer, if they had the chance to vote on it.

I thank the Chair. It will be a pleasure working with the Senator from Tennessee as we lead this great effort.

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

S. 2592. A bill to provide crop and livestock disaster assistance; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CONRAD. Mr. President, today I am joined by my colleague from North Dakota, Senator DORGAN, in introducing legislation intended to address the twin natural disasters that are threatening the livelihoods of farmers and ranchers across our State.

For much of North Dakota, the year began with great promise. Record high crop and livestock prices offered the potential for much needed improvement in farm income for producers throughout the State. The stage was set for increased returns from the marketplace, and a corresponding reduction in current costs under the 2002 Farm Bill.

Then Mother Nature intervened.

In early May, just as fieldwork was set to begin in earnest, many farmers in the northern part of the State were hit with a late snowfall and continued, unseasonably cool weather. That was followed by weeks of repeated rains, sometime several inches at a time. The deluge, and continued low temperatures, left fields soggy or underwater, and delayed and eventually prevented the planting of crops across huge swaths of the northern and northeastern part of the state, generating numerous reports of farmers being forced to abandon one-third, one-half, and even more of their crop ground.

As one hard struck farmer described the situation to me:

> Our 2004 crop is late again, due to cold wet ground since May 10. Heavy snow on May 11 and 12 and continuous rain is delaying all field work. If we don't get some help we will be forced to sell out. Input costs—fuel, fertilizer, and repairs never end. We haven't been able to seed a kernel of grain yet for 2004 due to too much water.

In the southwestern corner of North Dakota, the problem faced by livestock producers is just the opposite. Conditions are bone dry, and even though it's relatively early in the season, the land is parched, thanks to virtually no moisture since the start of the year and the lingering effect of a drought that has robbed the land of subsoil

moisture and that, for many producers, goes back two years or more.

Here's how one rancher explained what he's up against:

I am a registered Angus Producer in SW North Dakota. Our moisture situation is bad. We have had approximately 1″ of rain all spring if you count all the little showers together. The cool weather is the only thing that has saved what little forage there is in the pasture. There will be no hay crop and that includes trying to hay the ditches.

Another one wrote me:

I live in rural Sioux County North Dakota. I am a rancher. The drought situation is getting very serious. I am looking for options as far as feed & pasture for my cattle, but haven't found any yet. I have sold nearly half of my cattle since the dry conditions started in 2002. We appreciate any and all help that you can give us. This is cow country & I think we need to retain as much of our cattle numbers as we can.

These producers need real help and they need it urgently. That's why the bill I am introducing today follows closely the outline of disaster assistance legislation enacted in recent years, all in an effort to speed the delivery of crop and livestock assistance to those who livelihoods hang in the balance.

The essential provisions of the ''Agricultural Assistance Act of 2004'' are as follows:

First, in the case of crop losses, eligibility for assistance would be triggered by production losses exceeding 35 percent of normal yields. Under the bill, producers who had purchased crop insurance—which under the best of options covers only a portion of normal yields—would receive a payment equal to 50 percent of the ''established price'' for the crop. Those who did not purchase crop insurance would receive a payment equal to just 40 percent of the established price, and would be required to purchase crop insurance for each of the following two crop years. Assistance to individual producers would be limited as provided in previously-enacted disaster bills.

In the case of ranchers suffering grazing losses of 40 percent or more during three consecutive months, they would be eligible for payments to help defray the cost of purchasing feed. Payments under this program would similarly be limited as provided in past legislation.

Finally, I think it is important that in providing this assistance, we reinforce crop insurance as the foundation for agricultural risk management. This bill would do that. First, by not penalizing—as previous legislation did—those who had purchased crop insurance at higher coverage levels, and second, by decreasing the payment to those who purchased no crop insurance at all.

The natural disasters facing our farmers and ranchers demand immediate attention, and I urge the Congress, and the President, to act.

By Mr. LIEBERMAN:

S. 2594. A bill to reduce health care disparities and improve health care quality, to improve the collection of racial, ethnic, primary language, and socio-economic determination data for use by healthcare researchers and policymakers, to provide performance incentives for high performing hospitals and community health centers, and to expand current Federal programs seeking to eliminate health disparities; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, our Nation wrestles with a medical mystery that affects the health and very lives of millions of Americans every year: Why do patients with similar ailments have such disparate outcomes?

Albert Einstein once said: ''I cannot believe that God plays dice with the world.'' I would never quibble with Einstein. And besides, I strongly believe that myself.

I also believe we should aspire to that ideal in the earthly institutions we create, like our health care system. Medical outcomes should not be a matter of luck. Treatment should be as predictable and equal as possible within the bounds of science and human fallibility.

But that is not the system we have today. Study after study shows that we have created a health care casino where the quality of care seems to have as much to do with the luck of the dice as anything else.

In America, good medical care for all should be a given—not a gamble.

That is why today I am introducing legislation I call FairCare. FairCare will give us the tools we need to begin eliminating these across-the-board problems of medical disparities among patients with identical ailments.

In the broadest sense, we know we have two problems—quality of care and disparity of care. While these problems are distinct and separate—solving either will help solve both.

Let me dramatize the kind of odds we are talking about when a patient enters the healthcare system. I would ask my colleagues to imagine for a moment that they are in a casino, rolling dice and need a five or a nine to win. The odds of you winning with either of those numbers is about 60 percent. Of course, that means you have a 40 percent chance of losing.

Now, if you enjoy gambling—and are not betting a lot of money—maybe that's fun. But would you bet your house on those odds? Or your children's college fund? Or your health—or your life?

Well, the odds in our imaginary dice game are the precise odds we send people into the health care system every day.

A recent study reported in the New England Journal of Medicine said that about 40 percent of patients reported medical errors in the care of either themselves or a loved one. The cost of these mistakes is staggering. Between 44,000 and 100,000 people die each year because of those medical mistakes.

To put those shocking numbers in perspective, imagine if you will that our nation experienced a day like September the 11th, at least twice a month, every month—for a year.

Overall, the cost of not getting it right the first time represents a yearly loss to the national economy of $17 to $29 billion. This is due largely to the medical complications that must be treated down the line because of the initial medical errors, as well as lost wages and productivity.

Now, while most Americans have problems finding high-quality health care at a reasonable cost, racial and ethnic minorities fare the worst.

Medical studies also show that:

When actors portrayed patients with identical complaints of chest pain, women and African Americans were 40 percent less likely to have their complaints taken seriously and be referred for further diagnostic tests.

Hispanics with asthma are almost twice as likely as white patients to face largely-avoidable emergency rooms visits or have the illness limit their daily activities.

Infants born to American Indians and Alaskan Natives are twenty-five percent more likely than the national average to die in the first year of life.

Asian American women are 20 percent less likely to get life-saving screening exams for cervical cancer than white women.

And many of these disparities persist, even when factors like income and access to health care are taken into account. Why is this? The answer is: We don't exactly know. But it is clear that we do not have a color blind healthcare system. And unequal treatment is Un-American. We cannot tolerate it. Rather, we must understand it, confront it, and fix it.

Besides, solving this medical mystery for the most severely affected minority groups will improve healthcare for everyone else as well. In other words, if we can dramatically increase the quality of medical care, unfair disparities will decline and all will benefit.

The clues to solving the problems of both medical quality and healthcare disparities are there. We just have to go find them. That will require gathering crucial information that will help us clearly identify the problems. Then we can help finance the solutions that will cure them.

That's why we need FairCare.

To begin, we need data—we need to see where we have quality problems and where we have disparities in care. FairCare will bring the medical and patient communities together to help us better measure healthcare quality in a scientific way that will give us our first comprehensive glimpse of where the problems lie.

Once glimpsed, FairCare can begin to fund improvement efforts developed by local hospitals and community health centers that fit the needs of their local neighborhoods. FairCare will use the reach and resources of Medicare to reward hospitals that improve quality and reduce disparities.

In recent testimony before the House Ways and Means Subcommittee on Health Care, Glenn Hackbarth, Chairman of Medicare Payment Advisory Commission, said he agreed with this approach. ''It is time for Medicare to take the next step in quality improvement and put financial incentives for quality directly into its payment systems,'' he said.

Under FairCare, community health centers not part of the Medicare system will be eligible for grants and bonuses. In other words, FairCare is a carrots program, not a sticks program—it rewards hospitals and health centers that perform—that make progress in implementing quality healthcare and reducing healthcare disparities.

We will also provide tax relief to help FairCare providers cover the cost of their malpractice insurance.

Taken together, FairCare will give our most overburdened and financially strapped healthcare providers—that act to deliver quality medicine—the help they need to give their communities the help they need. And when they succeed, we will all win. When they succeed, good medical care for all will be a given—not a gamble.

Just as God does not play dice with the world, we will no longer play dice with the lives of our most vulnerable—the sick and the ailing.

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

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

S. 2594

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Faircare Act''.

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

SEC. 2. FINDINGS.

(a) EVIDENCE OF HEALTHCARE DISPARITIES.—With respect to evidence of healthcare disparities, Congress makes the following findings:

(1) Healthcare disparities affect the lives, health, and livelihood of Americans, and increase the overall cost of health care in the United States.

(2) Minority patients with chronic diseases have been found less likely to receive the necessary services required to manage effectively these illnesses, such as routine blood pressure checks or eye examinations, and are less likely to receive treatments to cure these conditions, such as heart surgeries or kidney transplants.

(3) Studies have shown that non-English speaking patients report more satisfaction with health encounters and have better health outcomes after encounters with healthcare providers who speak their primary language.

(4) The Institute of Medicine's report ''In the Nation's Compelling Interest'', concluded that racial and ethnic minority healthcare providers are significantly more likely than their white peers to serve minority and medically underserved communities, thereby helping to improve problems of limited minority access to care.

(5) Data from the National Center for Health Statistics demonstrates that minorities are less likely to receive routine cancer screenings even when they do have health insurance and access to healthcare providers, and once diagnosed with cancer, elderly minority patients are also less likely to receive appropriate treatment for pain associated with cancer.

(b) EVIDENCE OF INCONSISTENCIES IN HEALTHCARE QUALITY.—With respect to evidence of inconsistencies in healthcare quality, Congress makes the following findings:

(1) Inconsistent healthcare quality threatens the health of all Americans regardless of race, ethnicity, or socio-economic status.

(2) Studies by the RAND Corporation have shown that all patients in the United States have only a 55 percent possibility of receiving clinically appropriate care in the healthcare setting, despite the fact that the United States spends twice as much as other industrialized countries on health care.

(3) The control of hypertension is essential to reducing mortality from heart disease, stroke, and diabetes complications, yet, only 23 percent of Americans with hypertension are adequately treated.

(4) About 1 in 5 elderly Americans are prescribed inappropriate medications.

(5) Only 21 percent of Americans with diabetes get all recommended checkups.

(6) One of the safest, simplest, and most cost-effective ways to reduce cancer morbidity and mortality is to increase screening rates for selected cancers including colorectal cancers, yet, less than half of men and women over the age of 50 report screening for colorectal cancers.

(7) In the United States, over 1/4 of infants and toddlers of all races and ethnicities do not receive all recommended vaccines.

(8) Breakthroughs in treatments have enabled more patients to survive and live better, yet too many of these treatments are not being administered to all those who can benefit from them.

SEC. 3. DEFINITIONS.

In this Act:

(1) HEALTH DISPARITY POPULATIONS.—The term ''health disparity populations'' has the meaning given that term in section 485E(d) of the Public Health Service Act (42 U.S.C. 287c–31(d)).

(2) RACIAL AND ETHNIC MINORITY.—The term ''racial and ethnic minority'' has the meaning given the term ''racial and ethnic minority group'' in section 1707(g)(1) of the Public Health Service Act (42 U.S.C. 300u–6(g)(1)).

TITLE I—DEMOGRAPHIC DATA COLLECTION

SEC. 101. DATA ON RACE, ETHNICITY, HIGHEST EDUCATION LEVEL ATTAINED, AND PRIMARY LANGUAGE.

(a) PURPOSE.—It is the purpose of this section to promote data collection and reporting by race, ethnicity, highest education level attained, and primary language among federally supported health programs.

(b) AMENDMENT.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following:

''SEC. 249. DATA ON RACE, ETHNICITY, HIGHEST EDUCATION LEVEL ATTAINED, AND PRIMARY LANGUAGE.

''(a) REQUIREMENTS.—

''(1) IN GENERAL.—Each health-related program operated by or that receives funding or reimbursement, in whole or in part, either directly or indirectly from the Department of Health and Human Services shall, in accordance with the schedule described in subsection (e)—

''(A) require the collection, by the agency or program involved, of data on the race, ethnicity, highest education level attained, and primary language of each applicant for and recipient of health-related assistance under such program—

''(i) using, at a minimum, the categories for race and ethnicity described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity;

''(ii) using the standards developed under subsection (d) for the collection of language data;

''(iii) where practicable, collecting data for additional population groups if such groups can be aggregated into the minimum race and ethnicity categories as defined by the Office of Management and Budget; and

''(iv) where practicable, through self-reporting;

''(B) with respect to the collection of the data described in subparagraph (A) for applicants and recipients who are minors or otherwise legally incapacitated, require that—

''(i) such data be collected from the parent or legal guardian of such an applicant or recipient; and

''(ii) the preferred language of the parent or legal guardian of such an applicant or recipient be collected; and

''(C) ensure that the provision of assistance to an applicant or recipient of assistance is not denied or otherwise adversely affected because of the failure of the applicant or recipient to provide race, ethnicity, highest education level attained, and primary language data.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit the use of information collected under this subsection in a manner that would adversely affect any individual providing any such information.

''(b) PROTECTION OF DATA.—The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to subsection (a) is protected—

''(1) under the same privacy protections as the Secretary applies to other health data under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) relating to the privacy of individually identifiable health information and other protections; and

''(2) from all inappropriate internal use by any entity that collects, stores, or receives the data, including use of such data in determinations of eligibility (or continued eligibility) in health plans, and from other inappropriate uses, as defined by the Secretary.

''(c) COMPLIANCE WITH STANDARDS.—Data collected under subsection (a) shall be obtained, maintained, and presented (including for reporting purposes) in accordance with, at a minimum, the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity.

''(d) LANGUAGE COLLECTION STANDARDS.—Not later than 1 year after the date of enactment of this section, the Director of the Office of Minority Health, in consultation with the Office for Civil Rights of the Department of Health and Human Services, shall develop and disseminate Standards for the Classification of Federal Data on Preferred Written and Spoken Language.

''(e) SCHEDULE OF COMPLIANCE.—Data collection under subsection (a) shall be required within the following time periods:

''(1) With respect to medicare-related data (under title XVIII of the Social Security Act), such data shall be collected not later than 2 years after the date of enactment of this section, including data related to—

''(A) the Medicare Hospital Quality Initiative;

''(B) the Center for Medicare and Medicaid Services Abstraction or Reporting Tools (referred to in this section as 'CART');

''(C) all CART equivalent private databases used to submit data for the Medicare Hospital Quality Initiative or medicare billing (including data for both medicare and nonmedicare patients); and

''(D) all medicare billing communications.

''(2) With respect to data that is not currently mandated or collected and reported by the medicaid and State Children's Health Insurance Program (under titles XIX and XXI of the Social Security Act), such data shall be collected not later than 4 years after the date of enactment of this section.

''(3) With respect to data relating to biomedical and health services research that is described in subsection (a), such data shall be collected not later than 6 years after the date of enactment of this section.

''(4) With respect to data relating to all other programs described in subsection (a), such data shall be collected not later than 6 years after the date of enactment of this section.

''(f) TECHNICAL ASSISTANCE FOR THE COLLECTION AND REPORTING OF DATA.—

''(1) IN GENERAL.—The Secretary may, either directly or through grant or contract, provide technical assistance to enable a healthcare program or an entity operating under such program to comply with the requirements of this section.

''(2) TYPES OF ASSISTANCE.—Assistance provided under this subsection may include assistance to—

''(A) enhance or upgrade information technology that will facilitate race, ethnicity, highest education level attained, and primary language data collection and analysis;

''(B) improve methods for health data collection and analysis including additional population groups beyond the Office of Management and Budget categories if such groups can be aggregated into the minimum race and ethnicity categories;

''(C) develop mechanisms for submitting collected data subject to existing privacy and confidentiality regulations; and

''(D) develop educational programs to inform health insurance issuers, health plans, health providers, health-related agencies, and the general public that data collection and reporting by race, ethnicity, and preferred language are legal and essential for eliminating health and healthcare disparities.

''(g) GRANTS FOR DATA COLLECTION BY COMMUNITY HEALTH CENTERS AND HOSPITALS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services and the Administrator of the Health Resources and Services Administration, is authorized to award grants for the conduct of 100 demonstration programs, 50 percent of which shall be conducted by community health centers and 50 percent of which shall be conducted by hospitals, to enhance the ability of such centers and hospitals to collect, analyze, and report the data required under subsection (a).

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a community health center or hospital shall—

''(A) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

''(B) provide assurances that the community health center or hospital will use, at a minimum, the racial and ethnic categories and the standards for collection described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity and available standards for language.

''(3) ACTIVITIES.—A grantee shall use amounts received under a grant under paragraph (1) to—

''(A) collect, analyze, and report data by race, ethnicity, highest education level attained, and primary language for patients served by the hospital (including emergency room patients and patients served on an outpatient basis) or community health center;

''(B) enhance or upgrade computer technology that will facilitate racial, ethnic, highest education level attained, and primary language data collection and analysis;

''(C) provide analyses of disparities in health and healthcare, including specific disease conditions, diagnostic and therapeutic procedures, or outcomes;

''(D) improve health data collection and analysis for additional population groups beyond the Office of Management and Budget categories if such groups can be aggregated into the minimum race and ethnicity categories;

''(E) develop mechanisms for sharing collected data subject to privacy and confidentiality regulations;

''(F) develop educational programs to inform health insurance issuers, health plans, health providers, health-related agencies, patients, enrollees, and the general public that data collection, analysis, and reporting by race, ethnicity, and preferred language are legal and essential for eliminating disparities in health and healthcare; and

''(G) develop quality assurance systems designed to track disparities and quality improvement systems designed to eliminate disparities.

''(4) COMMUNITY HEALTH CENTER; HOSPITAL.—In this subsection:

''(A) COMMUNITY HEALTH CENTER.—The term 'community health center' means a Federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act.

''(B) HOSPITAL.—The term 'hospital' means a hospital participating in the prospective payment system under section 1886 of the Social Security Act and that is submitting quality indicators data in accordance with section 1886(b)(3)(B)(vii)(II) of the Social Security Act.

''(h) DEFINITION.—In this section, the term 'health-related program' means a program—

''(1) under the Social Security Act (42 U.S.C. 301 et seq.) that pays for healthcare and services; and

''(2) under this Act that provides Federal financial assistance for healthcare, biomedical research, health services research, and other programs designated by the Secretary.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2005, and such sums as may be necessary for each of fiscal years 2006 through 2015.''.

SEC. 102. REVISION OF HIPAA CLAIMS STANDARDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall revise the regulations promulgated under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.), as added by the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), relating to the collection of data on race, ethnicity, highest education level attained, and primary language in a health-related transaction to require—

(1) the use, at a minimum, of the categories for race and ethnicity described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity;

(2) the establishment of new data code sets for highest education level attained and primary language; and

(3) the designation of the racial, ethnic, highest education level attained, and primary language code sets as ''required'' for claims and enrollment data.

(b) DISSEMINATION.—The Secretary of Health and Human Services shall disseminate the new standards developed under subsection (a) to all health entities that are subject to the regulations described in such subsection and provide technical assistance with respect to the collection of the data involved.

(c) COMPLIANCE.—Not later than 1 year after the final promulgation of the regulations developed under subsection (a), the Secretary of Health and Human Services shall require that health entities comply with such standards.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2015.

TITLE II—IMPROVED COLLECTION OF QUALITY DATA

SEC. 201. AUTHORITY OF AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(3) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(4) by inserting after part B the following:

''PART C—IMPROVED COLLECTION OF QUALITY DATA

''SEC. 921. GENERAL AUTHORITY OF THE AGENCY TO DETERMINE MEASURES.

''(a) IN GENERAL.—The Agency, in consultation with the Centers for Medicare & Medicaid Services, the Health Resources and Services Administration, the Office for Civil Rights of the Department of Health and Human Services, and the Office of Minority Health, shall have the authority to develop a new set of quality measures for each of the most common treatment settings. Such settings shall include, but not be limited to, hospitals, outpatient facilities, community health centers, long term care facilities, and other independent health care facilities.

''(b) REQUIREMENTS.—The quality measures developed under subsection (a) shall—

''(1) as closely as possible reflect the healthcare priority areas determined by the Institute of Medicine, the National Quality Forum, the Quality Initiative, and other healthcare quality and health care disparity organizations as determined by the Secretary;

''(2) reflect the Institute of Medicine's goal of inclusiveness, improvability, and impact, addressing pervasive health and healthcare problems that produce a high level of morbidity and mortality, that disproportionally affect health disparity populations, and that have the potential for improvement with the consistent application of proven medical interventions; and

''(3) where practical, employ process measures of care.

''SEC. 922. USE OF HOSPITAL-SPECIFIC MEASURES.

''(a) DEVELOPMENT.—

''(1) IN GENERAL.—The Agency, in conjunction with the Centers for Medicare & Medicaid Services, shall develop a set of hospital quality measures.

''(2) USE.—The Secretary shall ensure that the Hospital Quality Initiative and the Robust Project Measures of the Centers for Medicare & Medicaid Services, and other Centers for Medicare & Medicaid Services directed quality initiatives use the hospital quality measures developed under paragraph (1).

''(b) SUBMISSION.—The information required under the measures developed under subsection (a) shall be submitted in accordance with section 1886(b)(3)(B)(vii) except that any reference to '2007' shall be deemed to be a reference to '2015'.

''SEC. 923. OUTPATIENT-SPECIFIC MEASURES.

''(a) IN GENERAL.—The Agency, in conjunction with the Bureau of Primary Health Care within the Health Resources and Services Administration, shall develop a set of outpatient quality measures. Such measures may be used as a supplement to existing demographic or quality reporting instruments or other quality reporting instruments utilized by the Health Resources and Services Administration.

''(b) VOLUNTARY SUBMISSION.—Submission of the supplementary information required under the measures developed under subsection (a) shall be voluntary.

''(c) DISCRETIONARY USE.—The measures developed under subsection (a) may be used as appropriate by the Hospital Quality Initiative and the Robust Project Measures and other Centers for Medicare & Medicaid Services-directed quality initiatives.

''SEC. 924. RANKING OF MEASURES.

''The Agency shall—

''(1) determine which of the quality measures developed under this part have the greatest potential to remedy healthcare disparities;

''(2) rank such quality measures according to such potential; and

''(3) rank such quality measures separately as applicable to hospitals and outpatients.

''SEC. 925. ADVISORY COMMITTEE ON QUALITY.

''(a) IN GENERAL.—The Agency shall establish an Advisory Committee on Quality (referred to in this section as the 'Advisory Committee') to recommend quality indicators for all quality data sets developed under this section. The Agency may designate a governmental or nongovernmental committee existing on the date of enactment of this part to serve as the Advisory Committee so long as the membership requirements of subsection (b) are complied with.

''(b) MEMBERSHIP.—The Advisory Committee shall be composed of not less than 10 members, including—

''(1) the Director;

''(2) the Administrator of the Centers for Medicare & Medicaid Services;

''(3) the Director of the Centers for Disease Control and Prevention;

''(4) the Administrator of the Health Resources and Services Administration;

''(5) the Director of the Office of Minority Health of the Department of Health and Human Services;

''(6) the Director of the Office for Civil Rights of the Department of Health and Human Services;

''(7) the Director of the Indian Health Service;

''(8) the chairperson of the Institute of Medicine National Roundtable on Healthcare Quality or other representatives of the Institute of Medicine;

''(9) the chairperson of the National Quality Forum;

''(10) the Director of the Joint Commission on Accreditation of Healthcare Organizations;

''(11) a representative of the Quality Initiative; and

''(12) other members to be appointed by the Secretary to represent other private, public, and non-profit stakeholders from medicine, healthcare, patient groups, and academia, who shall serve for a term of 3 years, and shall include a mix of different professions and broad geographic and culturally diverse representation

''(c) DUTIES.—The Advisory Committee shall—

''(1) for each 3 year period beginning with fiscal year 2005, report to the Agency recommendations of quality indicators for all quality data sets described in this part;

''(2) in making the recommendations described in paragraph (1), focus on how best to integrate the findings of the Institute of Medicine, the National Quality Forum, the Quality Initiative, and other healthcare quality and healthcare disparity organizations as determined by the Secretary into quality measures that can be used in carrying out sections 922 and 923; and

''(3) address issues of continuity of care between ambulatory care and inpatient settings to the maximum extent practicable.

''SEC. 926. UPDATES OF CONDITIONS.

''(a) IN GENERAL.—At least once during every 3-year period beginning in fiscal year 2006, the Secretary shall direct the Agency to update the list of measures as described in sections 922 and 923. Such updates shall be based on recommendations of the Advisory Committee established under section 925 and determined in consultation with the Centers for Medicare & Medicaid Services and the Health Resources and Services Administration.

''(b) REQUIREMENT.—For each period in which an update is undertaken under subsection (a), the Agency shall ensure that the recommendations referred to such subsection include measures for at least 4 additional conditions identified by the Institute of Medicine National Roundtable on Healthcare Quality, or measures developed by other healthcare disparity or healthcare quality organizations as determined by the Secretary, and not addressed by the quality reporting initiatives administered by the Secretary on the date of enactment of this part. The requirement of this section shall apply until there are measures for all Institute of Medicine priority areas.

''SEC. 927. REPORTING OF MEASURES.

''(a) IN GENERAL.—Not later than 5 years after the date of enactment of the Faircare Act, the Secretary shall enter into a contract with the Institute of Medicine to produce a report on the effectiveness of the quality measures developed by the Agency under this part in accurately assessing the quality of healthcare and healthcare disparities present in hospitals, community health centers, and other appropriate health care settings. Such report shall evaluate the progress made in improving the quality and consistency of healthcare and reducing healthcare disparities.

''(b) MANNER OF REPORTING.—All data reported under the Faircare Act (including data reported under this part) shall, to the maximum extent practicable, be reported by race, ethnicity, primary language, and highest educational level attained in accordance with section 249.

''SEC. 928. EFFECTIVENESS RESEARCH GRANTS.

''The Office of Minority Health shall have the authority to award grants to study the effectiveness of all measures and programs established under this part. The Office shall recommend ways to improve such measure and programs and to implement the findings of the study conducted under section 927.

''SEC. 929. PROTECTION OF DATA.

''(a) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to permit the use of information collected under this part in a manner that would adversely affect any individual providing any such information.

''(b) PROTECTION OF DATA.—The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to this part is protected—

''(1) under the same privacy protections as the Secretary applies to other health data under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) relating to the privacy of individually identifiable health information and other protections; and

''(2) from all inappropriate internal use by any entity that collects, stores, or receives the data, including use of such data in determinations of eligibility (or continued eligibility) in health plans, and from other inappropriate uses, as defined by the Secretary.

''SEC. 929A. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2005 through 2007, and such sums as may be necessary for each of fiscal years 2008 through 2015.''.

SEC. 202. OFFICE OF NATIONAL HEALTHCARE DISPARITIES AND QUALITY.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

"SEC. 904. OFFICE OF NATIONAL HEALTHCARE DISPARITIES AND QUALITY.

''(a) IN GENERAL.—There is established within the Agency an Office of National Healthcare Disparities and Quality (referred to in this section as the 'Office'). Such Office shall administer the development and submission of the annual National Healthcare Disparities Report (under section 903(a)(6)) and the National Healthcare Quality Report (under section 913(b)(2)) and carry out any other activities determined appropriate by the Secretary.

''(b) NATIONAL HEALTHCARE DISPARITIES AND QUALITY REPORTS.—

''(1) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Office, in consultation with the Advisory Committee under section 925, the Office of Minority Health, and the Office for Civil Rights of the Department of Health and Human Services, shall submit to the Secretary, the appropriate committees of Congress, and the public—

''(A) a report on the disparities in healthcare which shall include data using the quality measures developed by the Agency under part C; and

''(B) a report on general healthcare quality.

''(2) LIMITATIONS.—The reports under paragraph (1) shall not identify individual hospitals or healthcare providers but shall include regional and State level data. To the maximum extent practicable, such reports shall—

''(A) indicate variations in healthcare quality between States and regions; and

''(B) to the maximum extent practicable, include data reported by race, ethnicity, primary language, and highest educational level attained in accordance with section 249.

''(3) AVAILABILITY.—The Office shall make such reports available to States, tribal organizations, and territorial governments upon request.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2005 through 2007, and such sums as may be necessary for each of fiscal years 2008 through 2015.

''(c) ACTIVITIES RELATING TO BEST PRACTICES.—

''(1) REPORT.—The Office of National Healthcare Disparities and Quality shall annually publish a report that describes the specific activities undertaken by Faircare Level I institutions, as designated under section 330P of this Act or section 1898(b) of the Social Security Act, that have resulted in a decrease in healthcare disparities or improved quality. Such reports shall include recommendations for carrying out such activities at other healthcare institutions.

''(2) CONFERENCE.—In conjunction with the publication of each report under paragraph (1), Office of National Healthcare Disparities and Quality shall hold an annual conference at which personnel from the Faircare institutions described in paragraph (1) can interact, advise, and consult with other healthcare institutions.

''(3) TECHNICAL ASSISTANCE.—The Office of National Healthcare Disparities and Quality shall offer technical assistance to healthcare institutions in reducing healthcare disparities, including through the dissemination of information through the Office Internet website, the development of an electronic mail list of best practices, the maintenance of a database and clearinghouse of best practices, and through other activities determined appropriate by the Office.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $5,000,000 for each of fiscal years 2005 to 2007, and such sums as may be necessary for each of fiscal years 2008 through 2015.''.

TITLE III—FAIRCARE HOSPITAL PROGRAM

SEC. 301. FAIRCARE HOSPITAL PROGRAM.

(a) PURPOSES.—The purposes of this section are to—

(1) require the Administrator of the Center for Medicare & Medicaid Services to—

(A) determine which hospitals have successfully reduced healthcare disparities between health disparity populations and other patients and improved healthcare quality based on the Hospital Quality Initiative measures established by the Agency for Healthcare Research and Quality under part C of title IX of the Public Health Service Act, as added by title II;

(B) verify the accuracy of the data submitted by such hospitals for purposes of being designated as a Faircare Hospital; and

(C) designate such hospitals as Faircare hospitals; and

(2) provide such hospitals with increased payments under the medicare program.

(b) PROGRAM.—Title XVIII of the Social Security Act, as amended by section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447), is amended by adding at the end the following new section:

''PERFORMANCE INCENTIVE PAYMENT PROGRAM

''SEC. 1898. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish a program under which financial incentive payments are made in accordance with subsection (c) to subsection (d) hospitals (as defined in paragraph (2)) that have been designated under subsection (b).

''(2) SUBSECTION (d) HOSPITAL.—In this section, the term 'subsection (d) hospital' has the meaning given that term in section 1886(d)(1)(B).

''(b) DESIGNATION OF FAIRCARE HOSPITALS.—

''(1) IN GENERAL.—For each of fiscal years 2006 through 2014, the Secretary shall designate subsection (d) hospitals as follows:

''(A) LEVEL III FAIRCARE HOSPITAL.—The Secretary shall designate a subsection (d) hospital as a Level III Faircare hospital if the following requirements are met:

''(i) The subsection (d) hospital submitted data described in section 249 of the Public Health Service Act and part C of title IX of such Act to the Secretary in such form and manner and at such time specified by the Secretary under such section and part and all such data submitted relating to patient quality includes data on the race, ethnicity, highest education level attained, and primary language of such patients.

''(ii) The Secretary determines that the subsection (d) hospital has improved the rate of delivery of high quality care during the 24-month period preceding such determination. A hospital shall be determined to meet the requirement in the preceding sentence if the Secretary determines that the hospital has increased the frequency of appropriate care for the majority of the applicable measures during such 24-month period by at least 5 percentage points within each such measure.

''(B) LEVEL II FAIRCARE HOSPITAL.—The Secretary shall designate a subsection (d) hospital as a Level II Faircare hospital if the following requirements are met:

''(i) The requirements described in clauses (i) and (ii) of subparagraph (A) are met.

''(ii) The Secretary determines that the subsection (d) hospital, during the 24-month period preceding such determination, has made a significant reduction in the disparities in the treatment of health disparity populations relative to other patients for—

''(I) the majority of the applicable measures; or

''(II) all of the 25 percent highest ranked applicable measures, as ranked for their importance for healthcare equity by the Agency for Healthcare Research and Quality under section 925 of the Public Health Service Act.

''(C) LEVEL I FAIRCARE HOSPITAL.—The Secretary shall designate a subsection (d) hospital as a Level I Faircare hospital if the following requirements are met:

''(i) The requirement described subparagraph (A)(i) is met.

''(ii) Either—

''(I) the requirement described in subparagraph (A)(ii) is met; or

''(II) the Secretary determines that the frequency of appropriate care provided by the subsection (d) hospital for each applicable measure is at least 10 percentage points greater than the national average for the frequency of appropriate care for each applicable measure.

''(iii) The Secretary determines that the subsection (d) hospital, during the 24-month period preceding such determination, has had no significant disparity in the treatment of health disparity populations relative to other patients for all of the 75 percent highest ranked applicable measures, as ranked for their importance for healthcare equity by the Agency for Healthcare Research and Quality under section 925 of the Public Health Service Act.

''(2) APPLICABLE MEASURES DEFINED.—For purposes of this subsection, the term 'applicable measures' means the Hospital Quality Initiative measures established by the Agency for Healthcare Research and Quality under part C of title IX of the Public Health Service Act.

''(3) HEALTH DISPARITY POPULATION DEFINED.—For purposes of this subsection, the term 'health disparity population' has the meaning given that term in section 485E(d) of the Public Health Service Act.

''(b) FINANCIAL INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), for purposes of subclauses (XIX) and (XX) of section 1886(b)(3)(B)(i) for each of fiscal years 2007 through 2015, in the case of a subsection (d) hospital that has been designated under subsection (b) for a fiscal year, the Secretary shall increase the applicable percentage increase for the subsequent fiscal year for such hospital—

''(A) in the case of a Level I Faircare hospital, by 4 percentage points (or 8 percentage points in the case of such a hospital who is also described in subparagraph (B) of section 1923(b)(1)(B));

''(B) in the case of a Level II Faircare hospital, by 2 percentage points (or 4 percentage points in the case of such a hospital who is also described in subparagraph (B) of section 1923(b)(1)(B));; and

''(C) in the case of a Level III Faircare hospital, by 1 percentage point (or 2 percentage points in the case of such a hospital who is also described in subparagraph (B) of section 1923(b)(1)(B)).

''(2) REDUCTION IN FINANCIAL INCENTIVE PAYMENTS IF INSUFFICIENT FUNDING AVAILABLE.—If the Secretary estimates that the total amount of increased payments under paragraph (1) for a fiscal year will exceed the funding available under subsection (d) for such increased payments for the fiscal year, the Secretary shall proportionately reduce the percentage points described in subparagraphs (A), (B), and (C) of paragraph (1) in order to eliminate such excess.

''(3) INCREASED PAYMENT NOT BUILT INTO THE BASE.—Any increased payment under paragraph (1) shall only apply to the fiscal year involved and the Secretary shall not

take into account any such increased payment in computing the applicable percentage increase under clause (i)(XIX) for a subsequent fiscal year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for making payments under subsection (b) such sums as may be necessary for each of fiscal years 2007 through 2015.''.

SEC. 302. TECHNICAL ASSISTANCE GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide technical assistance to eligible entities for the conduct of demonstration projects to improve the quality of healthcare and to reduce healthcare disparities.

(b) ELIGIBILITY.—To be eligible to receive technical assistance under subsection (a), an entity shall—

(1) be a hospital—

(A) that, by legal mandate or explicitly adopted mission, provides patients with access to services regardless of their ability to pay;

(B) that provides care or treatment for a substantial number of patients who are uninsured, are receiving assistance under a State program under title XIX of the Social Security Act, or are members of health disparity populations, as determined by the Secretary; and

(C)(i) with respect to which, not less than 50 percent of the entity's patient population is made up of racial and ethnic minorities; or

(ii) that serves a disproportionate percentage of local, minority racial and ethnic patients, or that has a patient population, at least 50 percent of which is limited English proficient; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) TYPES OF ASSISTANCE.—The type of technical assistance that may be provided under this section shall be determined by the Centers for Medicare & Medicaid Services. Such assistance may include competitively awarded grants and other forms of assistance.

(d) USE OF ASSISTANCE.—Assistance provided under this section shall be used to improve healthcare quality or to reduce healthcare disparities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2015.

TITLE IV—COMMUNITY HEALTH CENTERS.

SEC. 401. AUTHORITY OF BUREAU OF PRIMARY HEALTH CARE TO DEVELOP NEW REPORTING STANDARDS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Bureau of Primary Health Care within the Health Resources and Services Administration, shall have the authority to—

(1) incorporate the outpatient measures of the Agency for Healthcare Research and Quality as developed under part C of title IX of the Public Health Service Act (as added by title II) into a supplement to existing demographic or quality reporting instruments or other quality reporting instruments utilized by the Health Resources and Services Administration;

(2) verify the submission of data under this title (and the amendments made by this title); and

(3) award Faircare designations in accordance with section 339P of the Public Health Service Act (as added by section 402).

(b) DISTRIBUTION.—Not later than 1 year after the date of enactment of this Act, the standards described in subsection (a) shall be designed and distributed to health centers under section 339P of the Public Health Service Act (as added by section 402).

SEC. 402. FAIRCARE DESIGNATION FOR HEALTH CENTERS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

''SEC. 399P. FAIRCARE DESIGNATION FOR HEALTH CENTERS.

''(a) DESIGNATION OF FAIRCARE HEALTH CENTERS.—

''(1) IN GENERAL.—For each of fiscal years 2006 through 2014, the Secretary shall designate health centers that receive Federal assistance as follows:

''(A) LEVEL III FAIRCARE HEALTH CENTER.—The Secretary shall designate a health center as a Level III Faircare health center if the following requirements are met:

''(i) The health center submitted data described in section 249 and part C of title IX to the Secretary in such form and manner and at such time specified by the Secretary under such section and part and all such data submitted relating to patient quality includes data on the race, ethnicity, highest education level attained, and primary language of such patients.

''(ii) The Secretary determines that the health center has improved the rate of delivery of high quality care during the 24-month period preceding such determination. A health center shall be determined to meet the requirement in the preceding sentence if the Secretary determines that the health center has increased the frequency of appropriate care for the majority of the applicable measures during such 24-month period by at least 5 percentage points within each such measure.

''(B) LEVEL II FAIRCARE HEALTH CENTER.—The Secretary shall designate a health center as a Level II Faircare health center if the following requirements are met:

''(i) The requirements described in clauses (i) and (ii) of subparagraph (A) are met.

''(ii) The Secretary determines that the health center, during the 24-month period preceding such determination, has made a significant reduction in the disparities in the treatment of health disparity populations relative to other patients for—

''(I) the majority of the applicable measures; or

''(II) all of the 25 percent highest ranked applicable measures, as ranked for their importance for healthcare equity by the Agency for Healthcare Research and Quality under section 925.

''(C) LEVEL I FAIRCARE HEALTH CENTER.—The Secretary shall designate a health center as a Level I Faircare health center if the following requirements are met:

''(i) The requirement described subparagraph (A)(i) is met.

''(ii) Either—

''(I) the requirement described in subparagraph (A)(ii) is met; or

''(II) the Secretary determines that the frequency of appropriate care provided by the health center for each applicable measure is at least 10 percentage points greater than the national average for the frequency of appropriate care for each applicable measure.

''(iii) The Secretary determines that the health center, during the 24-month period preceding such determination, has had no significant disparity in the treatment of health disparity populations relative to other patients for all of the 75 percent highest ranked applicable measures, as ranked for their importance for healthcare equity by the Agency for Healthcare Research and Quality under section 925.

''(2) APPLICABLE MEASURES DEFINED.—For purposes of this subsection, the term 'applicable measures' means the measures determined applicable under section 401(a) of the Faircare Act.

''(3) HEALTH DISPARITY POPULATION DEFINED.—For purposes of this subsection, the term 'health disparity population' has the meaning given that term in section 485E(d).

''(b) ELIGIBILITY FOR BONUSES.—A health center that is designated as a Faircare health center under subsection (a) shall be eligible for the following annual bonuses in the fiscal year following the year in which the health center is designated as a Faircare health center under this section, with respect to assistance received under Federal health care programs:

''(1) With respect to a health center that is designated as a Level III Faircare health center, the Secretary shall determine the amount of such bonus which shall not be less than $200,000.

''(2) With respect to a health center that is designated as a Level II Faircare health center, the Secretary shall determine the amount of such bonus which shall not be less than $300,000.

''(3) With respect to a health center that is designated as a Level I Faircare health center, the Secretary shall determine the amount of such bonus which shall not be less than $500,000.

''(c) REDUCTION IN FINANCIAL INCENTIVE PAYMENTS IF INSUFFICIENT FUNDING AVAILABLE.—If the Secretary estimates that the total amount of bonuses under subsection (b) for a fiscal year will exceed the funding available under subsection (e) for such bonuses for the fiscal year, the Secretary shall proportionately reduce the amount of the bonus payments described in paragraphs (1), (2), and (3) of subsection (b) in order to eliminate such excess.

''(d) DEFINITION.—For purposes of this section, the term 'health center' means a Federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 through 2015.''.

SEC. 403. GRANTS FOR TECHNICAL ASSISTANCE.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 402, is further amended by adding at the end the following:

''SEC. 399Q. GRANTS FOR TECHNICAL ASSISTANCE IN IMPROVING QUALITY.

''(a) IN GENERAL.—If a health center reporting data described in section 399P(a)(1)(A) for 3 or more years has demonstrated no improvement or a decrease in healthcare quality on at least 30 percent of all quality measures as designated under section 401(a) of the Faircare Act, such health center shall be given priority to receive technical assistance from the Bureau of Primary Health Care within the Health Resources and Services Administration.

''(b) TYPE OF ASSISTANCE.—The type of technical assistance that may be provided under subsection (a) shall be determined by the Bureau of Primary Health Care and may include competitively awarded grants and other forms of assistance.

''(c) USE OF ASSISTANCE.—Assistance provided under this section shall be used by the health center to improve healthcare quality or reduce healthcare disparities.

''(d) DEFINITION.—For purposes of this section, the term 'health center' means a Federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2007 through 2015.''.

SEC. 404. HEALTH DISPARITY COLLABORATIVES.

(a) IN GENERAL.—The Bureau of Primary Health Care within the Health Resources and Services Administration shall—

(1) provide technical assistance and funding to the Health Disparity Collaboratives; and

(2) expand the provision of technical assistance and funding, at the discretion of the Bureau, to priority areas designated by the Agency for Healthcare Research and Quality in consultation with the Advisory Committee established under section 925 of the Public Health Service Act.

(b) FUNDING.—The Bureau of Primary Health Care within the Health Resources and Services Administration shall continue to fund collaboratives with a goal of adding at least 50 new health centers each year.

(c) DEFINITION.—For purposes of this section, the term 'health center' means a Federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2015.

TITLE V—REACH 2010

SEC. 501. EXPANSION OF REACH 2010

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall award grants and carry out other activities to expand the Racial and Ethnic Approaches to Community Health Program (REACH 2010) program to support coalitions in all 50 States and territories.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

(1) be a coalition that is comprised of , at a minimum, a community-based organization and at least 3 other organizations, one of which is either a State or local health department or a university or research organization; and

(2) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF GRANTS.—Amounts provided under a grant under this section shall be used to support community coalitions in designing, implementing, and evaluating community-driven strategies to eliminate health disparities, with an emphasis on African Americans, American Indians, Alaska Natives, Asian Americans, Hispanic Americans, and Pacific Islanders.

(d) PRIORITY AREAS.—In carrying out the Racial and Ethnic Approaches to Community Health Program (REACH 2010) program, the Director of the Centers for Disease Control and Prevention shall include the following priority areas:

(1) Cardiovascular disease.

(2) Immunizations.

(3) Breast and cervical cancer screening and management.

(4) Diabetes.

(5) HIV/AIDS.

(6) Infant mortality.

(7) Asthma.

(8) Obesity.

(9) At the discretion of the Director of the Centers for Disease Control and Prevention, any additional priority areas determined appropriate by the Agency for Healthcare Research and Quality in consultation with the Advisory Committee established under section 925 of the Public Health Service Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section and the Racial and Ethnic Approaches to Community Health Program (REACH 2010) program, $200,000,000 for each of fiscal years 2005 to 2007, and such sums as may be necessary for each of fiscal years 2008 through 2015.

TITLE VI—MALPRACTICE INSURANCE RELIEF

SEC. 601. REFUNDABLE TAX CREDIT FOR THE COST OF MALPRACTICE INSURANCE FOR CERTAIN PROVIDERS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. CERTAIN MALPRACTICE INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an eligible health care provider, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of qualified malpractice insurance expenditures paid or incurred during the taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The applicable percentage shall be—

''(A) 10 percent for any taxable year for which the person claiming the credit is an eligible health care provider, plus

''(B) 5 percent for each consecutive prior taxable year ending after the date of enactment of this section for which such person was an eligible health care provider.

''(2) LIMITATION.—The applicable percentage shall not exceed 25 percent.

''(c) ELIGIBLE HEALTH CARE PROVIDER.—For purposes of this section, the term 'eligible health care provider' means—

''(1) a public or private nonprofit hospital which is—

''(A) located in a medically underserved area (as defined in section 1302(7) of the Public Health Service Act) or in a health professional shortage area (as designated under section 332 of the Public Health Service Act), and

''(B) designated as a Level I Faircare Hospital under section 339P of the Public Health Service Act or section 1898 of the Social Security Act for the year in which such hospital's taxable year ends, and

''(2) a physician for whom not less than 66 percent of the practice for the taxable year is at a facility described in paragraph (1).

''(d) QUALIFIED MEDICAL MALPRACTICE INSURANCE EXPENDITURE.—The term 'qualified medical malpractice insurance expenditure' means so much of any professional insurance premium, surcharge, payment or other cost or expense required as a condition of State licensure which is incurred by an eligible health care provider in a taxable year for the sole purpose of providing or furnishing general medical malpractice liability insurance for such eligible health care provider.''.

(b) DENIAL OF DOUBLE BENEFIT.—Section 280C of the Internal Revenue Code of 1986 (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) CREDIT FOR MEDICAL MALPRACTICE LIABILITY INSURANCE PREMIUMS.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified medical malpractice insurance expenditures otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 36.

''(2) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 41(f)(1).''.

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ''or from section 36 of such Code''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item related to section 36 and inserting the following new items:

''Sec. 36. Certain malpractice insurance costs.

''Sec. 37. Overpayments of tax.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2005.

(f) AVAILABILITY OF CREDIT FOR TAX EXEMPT ORGANIZATIONS.—The Secretary of the Treasury shall administer the credit allowable under section 36 of the Internal Revenue Code of 1986 (as added by this section) in such a manner so as to minimize to the largest extent possible the administrative burden on tax exempt organizations claiming the credit.

SEC. 602. GRANTS TO NON-PROFIT HOSPITALS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to assist such entities in defraying qualified medical malpractice insurance expenditures.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a Faircare Level I non-profit hospital (as determined under section 1898(b) of the Social Security Act) in the preceding fiscal year;

(2) not be eligible to claim the tax credit under section 36 of the Internal Revenue Code of 1986;

(3) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—The amount of a grant awarded to an eligible entity under this section shall be—

(1) with respect to the first year of the grant, an amount equal to 10 percent of the qualified medical malpractice insurance expenditures of the entity for the year;

(2) with respect to the second year of the grant, an amount equal to 15 percent of the qualified medical malpractice insurance expenditures of the entity for the year;

(3) with respect to the third year of the grant, an amount equal to 20 percent of the qualified medical malpractice insurance expenditures of the entity for the year; and

(4) with respect to the fourth and subsequent years of the grant, an amount equal to 25 percent of the qualified medical malpractice insurance expenditures of the entity for the year.

(d) DEFINITION.—In this section, the term ''qualified medical malpractice insurance expenditure'' has the meaning given such term in section 36(d) of the Internal Revenue Code of 1986.

SEC. 603. GRANTS FOR RESEARCH INTO QUALITY OF CARE AND MEDICAL ERRORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall award grants to eligible entities to study the relationship between institutions that are designated as Faircare hospitals under section 1898(b) of the Social Security Act and medical errors or the rate of claims of malpractice.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall

prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title, such sums as may be necessary for each of fiscal years 2005 through 2015.

STATEMENTS OF SUPPORT FOR THE LIEBERMAN FAIRCARE BILL

THE NATIONAL HEALTH LAW PROGRAM

''The National Health Law Program (NHeLP) commends the announcement of The Faircare Act. Recognizing that comprehensive and accurate data is critical to identifying and then eliminating health disparities, the Faircare Act would require race, ethnicity and primary language data collection throughout federally operated or funded health programs and provide crucial technical and financial assistance to healthcare providers to meet the challenges of eliminating health disparities.''

JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS

''The legislation comprehensively reflects current national research and programmatic initiatives such as those of the Joint Commission, private foundations, professional organizations, academic institutions, and state and national government agencies. For example, the Joint Commission has two externally funded research projects that are looking at issues related to culture and language. One, funded by the Commonwealth Fund, is looking at the impact of limited English proficiency on adverse medical events. Another, funded by The California Endowment, is looking at how hospitals across the nation are responding to issues of culture and language. In addition to research activities, the Joint Commission is engaging in field review of a proposed new standard to require the collection of information on patients' race, ethnicity, and primary language, is supporting the National Conference of Quality Health Care for Culturally Diverse Populations, and staff from the Joint Commission serve on a number of national advisory panels that are addressing issues of health care disparities, cultural and linguistic issues, and issues related to health literacy.''

''Financial incentives, as proposed in this legislation, are timely and appropriate. Based on focus group feedback, and input from Joint Commission advisory groups, the lack of incentive, competing priorities, and limited resources for providing culturally and linguistically appropriate services is the main barrier to implementation, secondary, only to the lack of awareness of the issue.''

THE PROGRESSIVE POLICY INSTITUTE

''Sen. Lieberman's FairCare Legislation would simultaneously make health care fairer and less wasteful by tackling one of the core problems with health care today: payment by procedure instead of performance. Too often, patients, especially minorities, do not receive basic high care quality like aspirin or beta-blockers for heart attack victims because providers can't charge for it. It's time for the federal government to make pay-for-performance a core feature of health care policy.''

PHYSICIANS FOR HUMAN RIGHTS

''Senator Lieberman's Faircare bill is an important step toward eliminating racial and ethnic disparities in healthcare by both assuring quality of care and reducing care inequities. Quality care means making the same healthcare available to all Americans regardless of race or ethnicity.''

THE OUT OF MANY, ONE COALITION

''We applaud Senator Lieberman's leadership in tying the elimination of health disparities to the improvement of healthcare quality in the Nation.''

NATIONAL CONFERENCE FOR COMMUNITY AND JUSTICE

''By establishing quantifiable standards, and providing incentives to meet those standards, Faircare: A Bill to Decrease Disparities in Healthcare Through Improving Healthcare Quality for All can help raise the quality and consistency of healthcare for all of us, not just some of us. The issue of disparities in healthcare is a national crisis, and the National Conference for Community and Justice (NCCJ) remains committed to working with decision-makers and community leaders to address this crisis on a national and regional level. It is a critical part of America's unfinished business, and through education and advocacy, we will bridge the divides of quality healthcare so that all people receive the information and treatment needed to lead healthy lives.''

By Mr. GREGG (for himself, Mr. HARKIN, Mr. ROBERTS, Mr. KENNEDY, Mr. REED, Mrs. MURRAY, Mr. JEFFORDS, Mr. ENZI, and Mr. DODD):

S. 2595. A bill to establish State grant programs related to assistive technology and protection and advocacy services, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today, I join my esteemed colleague, the Senator from Iowa, Senator HARKIN, and other members, in introducing the Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004.

For the past 6 months we have been working in a bipartisan fashion on the reauthorization of the Assistive Technology Act. Our proposed legislation is designed to remove barriers that people with disabilities encounter when attempting to access and purchase assistive technology. Working with the disability, business, and research and development communities, the Departments of Education, Labor, and Commerce, and the Small Business Administration, we have completely rewritten the Act to accomplish this goal. More specifically, our efforts focused on three fundamental changes: improving access by reducing bureaucracy; fostering private/public sector relationships; and stabilizing the State projects funding stream

In a March 1993 report to the President and the Congress on the ''Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities,'' the National Council on Disability heard repeatedly from witnesses at public forums about the abandonment of equipment by persons with disabilities who had no opportunity prior to purchase to try it out or see it demonstrated.

Current law authorizes State projects to conduct system change activities and provide information and referral services to people with disabilities and their families. Although these are necessary and important duties, they do not immediately impact and help a person with a disability obtain assistive technology that he or she may need today.

This bill modifies the current list of authorized activities by expanding the authority of the State assistive technology act programs to increase the ability of persons with disabilities to experience or obtain assistive technology. Our bill, written by members of the Committee on Health Education, Labor and Pensions, provides the State projects with a tangible set of mandatory activities, yet at the same time provides State flexibility to address emerging State needs.

Therefore, the new functions require States to provide citizens with access to device loan, reutilization, and financing programs, and equipment demonstration centers directly by developing such programs, or partnering with another entity in the State currently conducting these programs. The purpose of these programs is to provide individuals with disabilities the opportunity to receive proper assessments and evaluations for assistive technology, test and obtain information about various devices, borrow or rent devices and equipment before it is purchased, and be able to access low interest loans to purchase needed technology. Each of these new requirements will help make the most of limited public resources in an environment that emphasizes consumer choice in and control of assistive technology services and funding. Further, they demonstrate the benefits and costs of assistive technology.

Additionally, our bill intensifies outreach efforts to employers, providers of employment and adult services, school systems, and health care providers that have direct contact with persons with disabilities to inform them about the beneficial aspects of assistive technology. Finally, we authorize States to create an advisory board to provide enhanced flexibility, guide the actions of the State programs and establish State priorities to meet the specific assistive technology needs of State residents.

The Committee on Health Education, Labor and Pensions learned through several public forums held this and last year that employers are frequently confused by the vast array of assistive technology devices available to employees, the costs associated with purchasing assistive technology, and how or where to purchase assistive technology to meet the needs of potential employees or employees acquiring disabilities due to age, accidents and other causes. However, various studies paint a different picture. The Office of Disability Employment Policy of the Department of Labor funds the Job Accommodation Network (JAN), a free consulting service designed to increase the employability of people with disabilities. According to an ongoing JAN evaluation, 71 percent of the businesses

that used JAN for assistance on providing specific accommodation information for employees with disabilities found that the accommodation that the employee needed cost between $0.00 and $500.00.

This sent up a red flag, indicating that there is a disconnect or gap between the knowledge base as it currently exists and how that information reaches not only employers, but schools, school districts, hospitals and other entities. I imagine at schools and school officials in Berlin, NH, Clearmont, WY, Tribune, KS, or any other rural community would have a difficult time determining the assistive technology needs of a student with a disability without some type of assistance.

I am also sure that the same is true for small businesses. The Disability Business and Technical Assistance Centers (DBTACs), funded by the National Institute on Disability Rehabilitation and Research (NIDRR) Office of Special Education and Rehabilitative Services (OSERS) at the Department of Education, are regional Centers that provide training, information, and technical assistance on the Americans with Disabilities Act (ADA) to businesses, consumers, schools, and State and local governments. The DBTACs do wonderful work; however, a small business owner usually does not know where to go or where to send an employee if he or she needs an assessment or knowledge of various assistive devices so the small business can provide the necessary and appropriate assistive device.

According to statistics from the Small Business Administration office of Advocacy, small businesses pay 44.3 percent of the total private payroll in the United States, and have generated anywhere from 60 to 80 percent of net new jobs annually over the past decade. As a current high school student with disabilities graduates and looks for a job, there is a good chance that this young person will work for a small business. That being said, if the student has accommodation or technology needs, will the business know where to go for assistance?

There are quite a few State Assistive Technology Act projects that are currently conducting outreach and public awareness activities, providing technical assistance to the business community, but it is not occurring unilaterally across the Nation. While current law authorizes such activities it does not specifically state that public awareness activities should be focused on the business community.

This bill aggressively engages businesses, especially small businesses, by providing them with greater access to technical assistance so that they can accommodate employees with disabilities. Additionally, in an effort to improve access to assistive technology and to lower costs, the bill enhances competition and forges incentives for researchers and developers.

The bill accomplishes these goals by improving the utilization of federal dollars and collaborative efforts between the agency administering the Assistive Technology Act projects and other Federal departments and initiatives, such as the Small Business Administration's (SBA) and Department of Labor's (DOL) interagency initiative to improve employment opportunities for people with disabilities in small businesses.

This bill also strengthens relationships between federally funded programs, such as the Assistive Technology Act projects, with private sector employers and researchers, by directing the Office of Special Education and Rehabilitation Services at the Department of Education to make grants available to for-profit and non-profit entities to enhance public/private partnerships. These grant opportunities include creating grants to support the development of public service announcements, which can be modified for regional use, to reach out to small businesses, the aging population, and people with disabilities about the benefits of assistive technology. Grants can also fund a technical assistance provider to assist employers in addressing the needs of aging workers that are acquiring disabilities and may need assistive technology to maintain their current level of productivity.

When Congress passed the original Assistive Technology Act in 1988, Congressional intent was to provide States with time-limited Federal seed money to assist them in developing and implementing their own assistive technology programs. This Federal-State partnership has provided an important service to individuals with disabilities by strengthening the capacity of each State to assist individuals with disabilities of all ages with their assistive technology needs. However, thousands of people with disabilities could lose access to this infrastructure if the Federal contribution comes to an end. Additionally, the bill drafters have recognized that for-profit and non-profit entities have not put the necessary time and energy into fostering relationships with the State programs, fearing that the Federal contribution would end, and the State programs would no longer exist.

Three years ago, with the introduction of the President's New Freedom Initiative in the winter of 2001, the Administration launched new comprehensive programs to tell America that individuals with disabilities are valued citizens. Traditionally, individuals with disabilities have been outcasts of society—seen as burdensome and institutionalized—and have not been permitted to contribute to society or expected to pursue the American Dream that so many of us take for granted.

This Administration recognizes and believes in the full participation of people with disabilities in all areas of society. This belief has been put into action by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, promoting increased access into daily community life, and helping members of this misunderstood and underutilized group of citizens achieve and succeed. Compassionate Conservatism is what I believe our President calls it.

As the New Freedom Initiative states, ''Assistive and universally designed technologies can be a powerful tool for millions of Americans with disabilities, dramatically improving one's quality of life and ability to engage in productive work. New technologies are opening opportunities for even those with the most severe disabilities.'' This new-found sense of purpose and urgency, occurring shortly after the Olmstead decision, has re-ignited the interest and support for a Federal-State partnership to provide comprehensive, statewide assistive technology services to individuals with disabilities.

Consequently, Congress must stabilize funding for the State programs by supporting State efforts to improve the provision of assistive technology for individuals with disabilities. Congress must also ensure that the Federal commitment to independent living, and the full participation of individuals with disabilities in society, guaranteed through the President's ''New Freedom Initiative,'' is upheld. In this instance, that translates into providing States with the necessary funding to maintain the comprehensive Statewide programs of technology-related assistance for individuals with disabilities of all ages. However, the drafters of this legislation also expect States to take ownership of and expand upon the comprehensive Statewide programs of technology-related assistance.

Therefore, this bill removes the sunset provision in the 1998 Act and creates a typical reauthorization cycle, while slightly increasing the State minimum allotment to offset some of the costs for the additional requirements.

I would like to thank Senator HARKIN, and his staff, particularly Mary Giliberti, for their hard work and dedication in putting together a bi-partisan bill that will assist thousands of individuals with disabilities access services and devices that they so desperately need. I would also like to thank Senators ROBERTS, DEWINE, WARNER, ENSIGN, KENNEDY, and REED, and their staff members, Jennifer Swenson, Mary Beth Luna, John (JK) Robinson, Lindsay Lovlien, Kent Mitchell, Connie Garner, Elyse Wasch, and Erica Swanson as they were on board and helped make this a bipartisan process from the beginning.

Senator HARKIN and I were determined to make this a bipartisan process from the beginning. We have crafted a bill that we are confident will be overwhelmingly supported by both Republicans and Democrats—and most importantly by the disability community, providers of disability related

services, States, employers and businesses, and the educational community.

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

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

S. 2595

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 ''Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Over 54,000,000 individuals in the United States have disabilities, with almost half experiencing severe disabilities that affect their ability to see, hear, communicate, reason, walk, or perform other basic life functions.

(2) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(3) Too many individuals with disabilities are outside the economic and social mainstream of society in the United States. For example, individuals with disabilities are less likely than their non-disabled peers to graduate from high school, participate in postsecondary education, work, own a home, participate fully in their community, vote, or use the computer and the internet.

(4) As President Bush's New Freedom Initiative states, ''Assistive and universally designed technologies can be a powerful tool for millions of Americans with disabilities, dramatically improving one's quality of life and ability to engage in productive work. New technologies are opening opportunities for even those with the most severe disabilities. For example, some individuals with quadriplegia can now operate computers by the glance of an eye.''.

(5) According to the National Council on Disability, ''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.''.

(6) Substantial progress has been made in the development of assistive technology devices, universally designed products, and accessible information technology and telecommunications systems. Those devices, products, and systems can facilitate communication, ensure independent functioning, enable early childhood development, support educational achievement, provide and enhance employment options, and enable full participation in community living. Access to such devices, products, and systems can also reduce expenditures associated with early childhood intervention, education, rehabilitation and training, health care, employment, residential living, independent living, recreation opportunities, and other aspects of daily living.

(7) Over the last 15 years, the Federal Government has invested in the development of statewide comprehensive systems of assistive technology, which have proven effective in assisting individuals with disabilities in accessing assistive technology devices and assistive technology services. Federal dollars fund statewide infrastructures that support equipment demonstration programs, short-term device loan programs, financial loan programs, equipment exchange and recycling programs, training programs, advocacy services, and information and referral services.

(8) Despite the success of the programs and services described in paragraph (7), individuals with disabilities who need assistive technology and accessible information technology continue to have a great need to know what technology is available, to determine what technology is most appropriate, and to obtain and utilize that technology to ensure their maximum independence and participation in society.

(9) The 2000 decennial Census indicates that over 21,000,000 individuals in the United States, more than 8 percent of the United States population, have a disability that limits their basic physical abilities such as walking, climbing stairs, reaching, lifting, or carrying. Nearly 12 percent of working-age individuals in the United States, or 21,300,000 of those individuals, have a disability that affects their ability to work.

(10) The combination of significant recent changes in Federal policy (including changes to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), accessibility provisions of the Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), and the amendments made by the No Child Left Behind Act of 2001) and the rapid and unending evolution of technology require a Federal investment in State assistive technology systems to ensure that individuals with disabilities reap the benefits of the technological revolution and participate fully in life in their communities.

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

(1) to enhance the ability of the Federal Government to provide States with financial assistance that supports statewide—

(A) activities to increase access to, and funding for, assistive technology devices and assistive technology services, including financing systems and financing programs;

(B) device demonstration, device loan, and device re-utilization programs;

(C) training and technical assistance in the provision or use of assistive technology devices and assistive technology services;

(D) information systems relating to the provision of assistive technology devices and assistive technology services; and

(E) improved interagency and public-private coordination that results in increased availability of assistive technology devices and assistive technology services; and

(2) to provide States with financial assistance to undertake activities that assist each State in maintaining and strengthening cross-disability, full-lifespan State assistive technology programs, consistent with the Federal commitment to full participation and independent living of individuals with disabilities.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACCESSIBLE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS.—The term ''accessible information technology and telecommunications'' means information technology or electronic and information technology as defined by section 1194.4 of title 36, Code of Federal Regulations (or any corresponding similar regulation or ruling) that conforms to the applicable technical standards set forth in sections 1194.21 through 1194.26 of such title (or any corresponding similar regulation or ruling).

(2) ADULT SERVICE PROVIDER.—The term ''adult service provider'' means a public or private entity that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

(A) entities and organizations providing residential, supportive, employment services, or employment-related services to individuals with disabilities;

(B) centers for independent living, such as the centers described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(C) employment support agencies connected to adult vocational rehabilitation, including one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801); and

(D) other organizations or venders licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

(3) AMERICAN INDIAN CONSORTIUM.—The term ''American Indian consortium'' means a consortium established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(4) ASSISTIVE TECHNOLOGY.—The term ''assistive technology'' means technology designed to be utilized in an assistive technology device or assistive technology service.

(5) ASSISTIVE TECHNOLOGY DEVICE.—The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(6) ASSISTIVE TECHNOLOGY SERVICE.—The term ''assistive technology service'' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(7) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term ''capacity building and advocacy activities'' means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services,
in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(8) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term ''comprehensive statewide program of technology-related assistance'' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(9) CONSUMER-RESPONSIVE.—The term ''consumer-responsive''—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

(10) DISABILITY.—The term ''disability'' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

(11) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

(A) INDIVIDUAL WITH A DISABILITY.—The term ''individual with a disability'' means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) INDIVIDUALS WITH DISABILITIES.—The term ''individuals with disabilities'' means more than 1 individual with a disability.

(12) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes a community college receiving funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(13) PROTECTION AND ADVOCACY SERVICES.—The term ''protection and advocacy services'' means services that—

(A) are described in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(14) PROTECTION AND ADVOCACY SYSTEM.—The term ''protection and advocacy system'' means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(16) STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) OUTLYING AREAS.—In section 4(b):

(i) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) STATE.—The term ''State'' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17) STATE ASSISTIVE TECHNOLOGY PROGRAM.—The term ''State assistive technology program'', except as used in section 4(c)(2)(E), means a program authorized under section 4 or 6(a).

(18) TARGETED INDIVIDUALS AND ENTITIES.—The term ''targeted individuals and entities'' means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) underrepresented populations, including the aging workforce;

(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact with individuals with disabilities;

(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

(E) technology experts (including web designers and procurement officials);

(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

(G) employers, especially small business employers, and providers of employment and training services;

(H) entities that manufacture or sell assistive technology devices;

(I) policymakers and service providers;

(J) entities that carry out community programs designed to develop essential community services in rural and urban areas, including AgrAbility projects, Rural Business-Cooperative Service programs, Community Development Financial Institution Fund programs, and other rural and urban programs; and

(K) other appropriate individuals and entities, as determined for a State by the State advisory council.

(19) TECHNOLOGY-RELATED ASSISTANCE.—The term ''technology-related assistance'' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 2(b)(2).

(20) UNDERREPRESENTED POPULATION.—The term ''underrepresented population'' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

(21) UNIVERSAL DESIGN.—The term ''universal design'' means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

SEC. 4. STATE GRANTS FOR ASSISTIVE TECHNOLOGY.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award grants under subsection (b) to States to support activities that increase access to assistive technology and accessible information technology and telecommunications, for individuals with disabilities across the human lifespan and across the wide array of disabilities, on a statewide basis.

(2) PERIOD OF GRANT.—The Secretary shall provide assistance through such a grant to a State for not more than 5 years.

(b) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—From funds appropriated under section 10(a) for a fiscal year and available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area based on the corresponding allotment determined under paragraph (2).

(2) ALLOTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), from the funds described in paragraph (1), the Secretary shall allot not less than $500,000 to each State and not less than $150,000 to each outlying area for each fiscal year.

(B) LOWER APPROPRIATION YEAR.—For a fiscal year for which the amount of the funds described in paragraph (1) is less than $29,000,000, from those funds, the Secretary—

(i) shall allot to each State or outlying area the amount the State or outlying area received for fiscal year 2004 to carry out section 101 of the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of this Act; and

(ii) from any funds remaining after the Secretary makes the allotments described in clause (i), shall allot to each State an equal amount.

(C) HIGHER APPROPRIATION YEAR.—For a fiscal year for which the amount of the funds described in paragraph (1) is not less than $29,000,000, from those funds, the Secretary—

(i) from a portion of the funds equal to $29,000,000, shall make the allotments described in clauses (i) and (ii) of subparagraph (B);

(ii) from any funds remaining after the Secretary makes the allotments described in clause (i), shall allot to each outlying area an additional amount, so that each outlying area receives a total allotment of not less than $150,000 under this paragraph; and

(iii) from any funds remaining after the Secretary makes the allotments described in clauses (i) and (ii)—

(I) shall allot to each State an amount that bears the same relationship to 80 percent of the remainder as the population of the State bears to the population of all States; and

(II) from 20 percent of the remainder, shall allot to each State an equal amount.

(3) CARRYOVER.—Any amount paid to a State program for a fiscal year under this section shall remain available to such program for obligation until the end of the next fiscal year for the purposes for which such amount was originally provided, except that program income generated from such amount shall remain available to such program until expended.

(c) LEAD AGENCY, IMPLEMENTING ENTITY, AND ADVISORY COUNCIL.—

(1) LEAD AGENCY AND IMPLEMENTING ENTITY.—

(A) LEAD AGENCY.—The Governor shall designate a lead agency to control and administer the funds made available through the grant awarded to the State under this section.

(B) IMPLEMENTING ENTITY.—

(i) IN GENERAL.—The Governor shall designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the ''implementing entity''), if such implementing entity is different from the lead agency.

(ii) TYPE OF ENTITY.—In designating the implementing entity, the Governor may designate—

(I) a commission, council, or other official body appointed by the Governor;

(II) a public-private partnership or consortium;

(III) a public agency, including the immediate office of the Governor, a State oversight office, a State agency, a public institution of higher education, a University Center for Excellence in Developmental Disabilities Education, Research, and Service established under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or another public entity;

(IV) a council established under Federal or State law;

(V) an incorporated private nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code; or

(VI) another appropriate agency, office, or entity.

(iii) EXPERTISE, EXPERIENCE, AND ABILITY.—In designating the implementing entity, the Governor shall designate an entity with expertise, experience, and ability with respect to—

(I) providing leadership in developing State initiatives related to assistive technology and accessible information technology and telecommunications;

(II) responding to assistive technology and accessible information technology and telecommunications needs of individuals with disabilities with the full range of disabilities and of all ages; and

(III) promoting availability throughout the State of assistive technology devices, assistive technology services, and accessible information technology and telecommunications.

(C) CHANGE IN AGENCY OR ENTITY.—On obtaining the approval of the Secretary, the Governor may redesignate the lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d) or other documentation requested by the Secretary.

(2) ADVISORY COUNCIL.—

(A) IN GENERAL.—There shall be established an advisory council to provide consumer-responsive, consumer-driven decisionmaking for, planning of, implementation of, and evaluation of the activities carried out through the grant.

(B) COMPOSITION AND REPRESENTATION.—

(i) INDIVIDUALS WITH DISABILITIES.—A majority, not less than 51 percent, of the members of the advisory council shall be individuals with disabilities that use assistive technology, or family members or guardians of such individuals.

(ii) COMPOSITION.—The advisory council shall be composed of—

(I) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

(II) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

(III) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

(IV) a representative of the State educational agency, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);

(V) a representative of the State agency for the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(VI) the Director of the State assistive technology program;

(VII) representatives of other State agencies, public agencies, and private organizations, as determined by the State; and

(VIII) individuals with disabilities, or parents, family members, or guardians of individuals with disabilities, who represent recipients of services from the entities identified in subclauses (I) through (VII).

(iii) REPRESENTATION.—The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

(C) EXPENSES.—The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

(D) PERIOD.—The members of the State advisory council shall be appointed not later than 90 days after the approval of the State application described in subsection (d).

(E) IMPACT ON EXISTING STATUTES, RULES, OR POLICIES.—Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

(d) APPLICATION.—

(1) IN GENERAL.—Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

(2) LEAD AGENCY AND IMPLEMENTING ENTITY.—The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), including information describing the expertise, experience, and ability of the entity.

(3) ADVISORY COUNCIL.—The application shall contain an assurance that an advisory council will be established in accordance with subsection (c)(2).

(4) INVOLVEMENT OF PUBLIC AND PRIVATE ENTITIES.—The application shall describe how various public and private entities were involved in the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including—

(A) in cases determined to be appropriate by the State or the State advisory council, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity and a State or entity that receives a grant under section 6(a).

(5) IMPLEMENTATION.—The application shall include a description of—

(A) how the State will implement each of the required activities described in subsection (e), except as provided in subparagraph (A) or (B) of subsection (e)(1); and

(B) how the State will allocate and utilize grant funds to implement the activities.

(6) ASSURANCES.—The application shall include assurances that—

(A) the State will annually collect data related to the required activities in order to prepare the progress reports required under subsection (f);

(B) funds received through the grant—

(i) will be expended in accordance with this section, on initiatives identified by the advisory council described in subsection (c)(2);

(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

(iii) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with funds from other sources if funds had not been available through the grant; and

(iv) will not be commingled with State or other funds, except that the State may, subject to such documentation requirements as the Secretary may establish, pool funds received through the grant with other public or private funds to achieve a goal specified in an application approved under this section;

(C) the lead agency will control and administer the funds received through the grant;

(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant; and

(E) the State (including the State lead agency) will not use more than 10 percent of the funds received through the grant for indirect costs.

(e) USE OF FUNDS.—

(1) IN GENERAL.—Any State that receives a grant under this section shall use the funds made available through the grant to carry out the activities described in paragraph (2),

except that the State shall not be required to carry out an activity if—

(A) another entity in the State is providing the same or a similar activity; or

(B) the advisory council described in subsection (c)(2) determines through a needs assessment that the residents of the State consider the activity to be unwarranted.

(2) REQUIRED ACTIVITIES.—

(A) STATE FINANCING SYSTEMS.—The State shall support activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals described in section 3(18)(A), such as—

(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include studying the feasibility of, improving, administering, operating, providing capital for, or collaborating with an entity with respect to, such a system) for the provision of assistive technology devices (including related accessible information technology and telecommunications) and assistive technology services, such as—

(I) a low-interest loan fund;

(II) an interest buy-down program;

(III) a revolving loan fund;

(IV) a loan guarantee or insurance program;

(V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(VI) another mechanism that is approved by the Secretary.

(B) DEVICE DEMONSTRATIONS.—

(i) IN GENERAL.—The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate, assist individuals in making informed choices regarding, and provide experiences with, a variety of assistive technology devices and assistive technology services, using personnel who are familiar with such devices and services and their applications.

(ii) COMPREHENSIVE INFORMATION.—The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology venders, providers, and repair services.

(C) DEVICE LOAN PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of individuals with disabilities.

(D) DEVICE RE-UTILIZATION PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out assistive technology device re-utilization programs that provide for the exchange, repair, recycling, or other re-utilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

(E) TRAINING AND TECHNICAL ASSISTANCE.—

(i) IN GENERAL.—The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities to develop and disseminate training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

(ii) AUTHORIZED ACTIVITIES.—In carrying out activities under clause (i), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in clause (i), which may include—

(I) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;

(II) skills-development training in assessing the need for assistive technology devices and assistive technology services;

(III) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, accessible information technology and telecommunications, and accessible technology for e-government functions;

(IV) training in the importance of culturally competent and linguistically appropriate approaches to assessment and implementation; and

(V) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

(F) PUBLIC AWARENESS.—

(i) IN GENERAL.—The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability and benefits of assistive technology devices and assistive technology services.

(ii) COLLABORATION.—The State shall collaborate with a training and technical assistance provider described in section 7(b)(1) to carry out public awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

(iii) STATEWIDE INFORMATION AND REFERRAL SYSTEM.—

(I) IN GENERAL.—The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

(II) CONTENT.—The system shall deliver information on—

(aa) assistive technology devices and accessible information technology and telecommunications products;

(bb) assistive technology services, with specific data regarding provider availability within the State; and

(cc) the availability of resources, including funding through public and private sources, to obtain assistive technology devices, accessible information technology and telecommunications products, and assistive technology services.

(G) INTERAGENCY COORDINATION AND COLLABORATION.—The State shall promote improved coordination of activities and collaboration among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others.

(H) TARGETED POPULATION ACTIVITY.—

(i) IN GENERAL.—The State shall directly, or in collaboration with public or private entities, carry out coordinated activities to improve access to assistive technology devices and assistive technology services for 1 State-chosen targeted population, consisting of—

(I) elementary and secondary school students, elementary and secondary education providers, and related personnel;

(II) adult service provider clients, adult service providers, and related personnel; or

(III) employees, employment providers, and related personnel.

(ii) REQUIRED ACTIVITIES.—In carrying out activities under clause (i), the State shall carry out targeted initiatives consisting of 2 or more of the required activities described in subparagraphs (A) through (F), including—

(I) public-awareness activities described in subparagraph (F); and

(II) training and technical assistance described in subparagraph (E) which shall include technical training described in subparagraph (E)(v).

(iii) OPTIONAL ACTIVITIES.—In carrying out activities under clause (i), the State may carry out State-identified improvement projects, which may include activities to—

(I) improve the timely acquisition or retention and utilization of appropriate assistive technology for students in transition;

(II) increase utilization of technology solutions to enhance community integration and aging in place; and

(III) increase integration of assistive technology and accessible information technology and telecommunications into the services provided at one-stop centers established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2831 et seq.).

(3) CONDITIONS.—

(A) COVERED STATE.—In this paragraph, a ''covered State'' means a State that received funds for an alternative financing mechanism under—

(i) title III of the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of this Act; and

(ii) a grant awarded under this section, to carry out activities described in paragraph (2)(A).

(B) REQUIREMENTS.—Each covered State shall meet the requirements of subparagraphs (B) and (C) of section 6(a)(5), except that references in those subparagraphs to a grant shall be considered to be references to the grant described in subparagraph (A)(ii).

(4) STATE FUNDS.—A State may use State funds to carry out activities described in paragraph (2)(A) for additional targeted individuals and entities (other than individuals and entities described in section 3(18)(A)) if the State advisory council described in subsection (c)(2) approves the additional targeted individuals and entities.

(f) PROGRESS REPORTS.—

(1) DATA COLLECTION.—States shall participate in data collection as required by law, including data collection required for preparation of the report described in paragraph (2).

(2) REPORTS.—

(A) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare and submit to the President and to Congress a report on the activities funded under this Act.

(B) CONTENTS.—The report shall include data collected pursuant to this section and section 6(a)(7). The report shall document, with respect to activities carried out under this section and section 6(a)—

(i) the number and dollar amount of financial loans made;

(ii) the number and type of assistive technology device demonstrations provided;

(iii) the number and type of assistive technology devices loaned through device loan programs;

(iv) the number and estimated value of assistive technology devices exchanged, repaired, recycled, or re-utilized (including redistributed through device sales, loans, rentals, or donations) through device re-utilization programs;

(v)(I) the number and general characteristics of individuals who participated in training (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

(II) to the extent practicable, the geographic distribution of individuals who participate in training or technical assistance activities;

(vi) the amount and nature of technical assistance provided to State and local agencies and other entities;

(vii) the number of individuals assisted through the public-awareness activities and statewide information and reference system;

(viii) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, accessible information technology and telecommunications, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

(ix) the outcomes of interagency coordination and collaboration activities carried out by the State that support access to assistive technology, including documenting—

(I) the type of, purpose for, and source of leveraged funding or other contributed resources from public and private entities, and the number of individuals served with those resources for which information is not reported under clauses (i) through (viii) or clause (x), and other outcomes accomplished as a result of such activities carried out with those resources; and

(II) the type of, purpose for, and amount of funding provided through subcontracts or other collaborative resource-sharing agreements with public and private entities, including community-based nonprofit organizations, and the number of individuals served through those agreements for which information is not reported under clauses (i) through (viii) or clause (x), and other outcomes accomplished as a result of such activities carried out through those agreements;

(x) measured outcomes of activities undertaken to improve access to assistive technology devices and assistive technology services for targeted populations; and

(xi) the level of customer satisfaction with, or the outcomes of, the services provided.

SEC. 5. STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants under subsection (b) to protection and advocacy systems in each State for the purpose of enabling such systems to assist in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services for individuals with disabilities.

(2) GENERAL AUTHORITIES.—In providing such services, protection and advocacy systems shall have the same general authorities as the systems are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), as determined by the Secretary.

(b) GRANTS.—

(1) RESERVATION.—For each fiscal year, the Secretary shall reserve such sums as may be necessary to carry out paragraph (4).

(2) POPULATION BASIS.—On October 1 of each year, from the funds appropriated under section 10(b) and remaining after the reservations required by paragraph (1) have been made, the Secretary shall make a grant to a protection and advocacy system within each State in an amount bearing the same ratio to the remaining funds as the population of the State bears to the population of all States.

(3) MINIMUMS.—Subject to the availability of appropriations, the amount of a grant to a protection and advocacy system under paragraph (2) for a fiscal year shall—

(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, not be less than $30,000; and

(B) in the case of a protection and advocacy system located in a State not described in subparagraph (A), not be less than $50,000.

(4) PAYMENT TO THE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—

(A) IN GENERAL.—The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section.

(B) AMOUNT OF GRANTS.—The amount of such grants shall be the same as provided under paragraph (3)(A), as increased under paragraph (5).

(5) MINIMUM GRANT INCREASE.—For each fiscal year for which the total amount appropriated under section 10(b) is $4,419,000 or more, and such appropriated amount exceeds the total amount appropriated under such section (or a predecessor authority) for the preceding fiscal year, the Secretary shall increase each of the minimum grant amounts described in subparagraphs (A) and (B) of paragraph (3) by a percentage equal to the percentage increase (if any) in the total amount appropriated under section 10(b) (or a predecessor authority) to carry out this section between the preceding fiscal year and the fiscal year involved.

(c) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Secretary shall pay directly to any protection and advocacy system that complies with this section, the total amount of the grant made for such system under this section, unless the system provides otherwise for payment of the grant amount.

(d) CERTAIN STATES.—

(1) GRANT TO LEAD AGENCY.—Notwithstanding any other provision of this section, with respect to a State that, on November 12, 1998, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall pay the amount of the grant described in subsection (a), and made under subsection (b), to the lead agency designated under section 4(c)(1) for the State.

(2) DISTRIBUTION OF FUNDS.—A lead agency to which a grant is awarded under paragraph (1) shall determine the manner in which funds made available through the grant will be allocated among the entities that were providing protection and advocacy services in that State on the date described in such paragraph, and shall distribute funds to such entities. In distributing such funds, the lead agency shall not establish any additional eligibility or procedural requirements for an entity in the State that supports protection and advocacy services through a protection and advocacy system. Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under this section.

(3) APPLICATION OF PROVISIONS.—Except as provided in this subsection, the provisions of this section shall apply to the grant in the same manner, and to the same extent, as the provisions apply to a grant to a system.

(e) CARRYOVER.—Any amount paid to a protection and advocacy system for a fiscal year under this section shall remain available to such system for obligation until the end of the next fiscal year for the purposes for which such amount was originally provided, except that program income generated from such amount shall remain available to such system until expended.

(f) ANNUAL REPORT.—Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Secretary concerning the services provided and outcomes of services provided under this section to individuals with disabilities for the purposes of assisting in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

SEC. 6. SUPPLEMENTARY GRANTS AND PROJECTS OF NATIONAL SIGNIFICANCE.

(a) SUPPLEMENTARY GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall award supplementary grants, on a competitive basis, to States or other entities to carry out 1 or more of the activities described in paragraph (6), either directly or through subgrants to or other collaborative mechanisms with public or private entities, to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase or have increased access to assistive technology devices and assistive technology services. The Secretary shall award such a grant to not more than 1 entity in each State.

(B) PERIOD OF GRANTS.—The Secretary shall award grants under this subsection for periods of 12 months.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall have received a grant under section 4 or under section 101 of the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of this Act.

(3) APPLICATIONS.—A State or entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including the following:

(A)(i) A description of—

(I) the goals the State or entity has identified for the supplementary grant; and

(II) the activities the State or entity will carry out to achieve such goals, in accordance with the requirements of paragraphs (5) and (6).

(ii) A description of how the State or entity will measure whether the goals identified by the State or entity have been achieved by the end of the grant period.

(B) A description of the proposed use of funds to meet the identified goals.

(C) If the application is submitted by an entity other than the implementing entity for the State assistive technology program, a description of the mechanisms established to ensure coordination of activities and collaboration with the implementing entity.

(D) In the case of an application for a grant for an alternative financing loan program described in paragraph (6)(A), information identifying and describing—

(i) a consumer-based organization that has individuals with disabilities involved in organizational decisionmaking at all organizational levels, that will administer the alternative financing loan program; and

(ii) a commercial lending institution, State financing agency, or other qualified entity who will facilitate implementation of the program.

(E) A description of resources that have been committed for the activities to be carried out under the grant and assurances that—

(i) the State or entity will provide any required non-Federal contributions toward the cost of the activities;

(ii) the State or entity will make every effort to continue the activities on a permanent basis;

(iii) the funds made available through the grant to support the activities will supplement and not supplant other funds available to provide such activities;

(iv) in the case of a grant for an alternative financing loan program described in paragraph (6)(A)—

(I) all funds that support the alternative financing loan program, including the grant funds, funds provided for the non-Federal contributions described in clause (i), funds repaid during the life of the program, and any interest or investment income resulting from the program, will be placed in a permanent separate account and identified and accounted for separately from any other funds;

(II) such account will be—

(aa) used only to support the alternative financing program;

(bb) administered by an organization that has individuals with disabilities involved in organizational decisionmaking at all organizational levels; and

(cc) administered with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person; and

(III) if the funds in the account are invested, the funds will be invested in low-risk securities in which a regulated insurance company may invest under the law of the State.

(4) PREFERENCES.—

(A) EXPERIENCE.—In awarding grants under this subsection for activities described in subparagraph (A) or (B) of paragraph (6), the Secretary shall give preference to a State entity or other entity that—

(i) has experience carrying out similar activities; or

(ii) received a grant under title III of the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of this Act, or a predecessor authority.

(B) NO PRIOR GRANT OR LOW GRANT TOTAL.—In awarding grants under this subsection for activities described in paragraph (6)(A), the Secretary may give preference to a State, or an entity in a State, where the State has not received a grant, or has received less than a total of $1,000,000 in grant awards, under title III of the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of this Act. In awarding grants under this subsection for activities described in paragraph (6)(B), the Secretary may give preference to a State, or an entity in a State, where the State has not operated a device loan program for assistive technology or assistive technology devices.

(C) LIMITATIONS.—A State, or an entity in a State, where the State has not received an alternative financing grant described in subparagraph (B) may not receive an initial grant under this subsection for activities described in paragraph (6)(A) in an amount greater than $1,000,000. A State, or an entity in a State, where the State has not operated a device loan program described in subparagraph (B) may not receive an initial grant under this subsection for activities described in paragraph (6)(B) in an amount greater than $1,000,000.

(5) CONDITIONS ON SUPPLEMENTARY GRANTS.—

(A) PAYMENTS TO STATES OR OTHER ENTITIES.—Subject to the conditions specified in this subsection, the Secretary shall make payments to the States or entities that are selected to receive supplementary grants awarded under this subsection.

(B) OBLIGATION AND EXPENDITURE.—A State or entity that receives a grant under this subsection shall obligate and expend the funds made available through the grant during the period of the grant.

(C) MATCHING REQUIREMENT.—With respect to the cost to be incurred by a State or entity that receives a grant under this subsection to carry out activities described in paragraph (6), a State or entity that receives such a grant in an amount of more than $500,000 shall make available non-Federal contributions in an amount not less than $1 for every $5 of Federal funds provided under the grant.

(D) INDIRECT COSTS.—No State or entity shall use more than 10 percent of the funds made available through a grant awarded under this subsection for indirect costs.

(6) ACTIVITIES.—The State or entity may use funds made available through a grant awarded under this subsection to carry out 1 or more of the following activities:

(A) ALTERNATIVE FINANCING LOAN PROGRAMS CAPITAL INFUSION GRANTS.—The establishment or expansion, and administration, of an alternative financing loan program to allow targeted individuals and entities described in section 3(18)(A) to purchase assistive technology devices and assistive technology services, accessible information technology and telecommunications, and related goods and services required for the independence and productivity of an individual with a disability. The program may include—

(i) a low-interest loan fund program;

(ii) an interest buy-down program;

(iii) a revolving loan fund program;

(iv) a loan guarantee or insurance program; or

(v) a program based on another financing mechanism that is approved by the Secretary.

(B) DEVICE LOAN PROGRAMS CAPITAL INFUSION GRANTS.—The expansion and administration of device loan programs to meet unique or comprehensive State needs, such as the expansion and administration of the programs through—

(i) joint funding agreements between the implementing entity for the State assistive technology program and educational agencies, vocational rehabilitation agencies, entities providing medical assistance, or other public or private entities who pay for assistive technology devices; or

(ii) a specialized State-specific funding stream or pool for the purchase of assistive technology to be loaned.

(C) STATE FUNDS.—A State may use State funds to carry out activities described in subparagraph (A) for additional targeted individuals and entities (other than individuals and entities described in section 3(18)(A)) if the State advisory council described in section 4(c)(2) and the consumer-based organization described in paragraph (3)(D) approve the additional targeted individuals and entities.

(7) PROGRESS REPORTS.—

(A) IN GENERAL.—Each State or entity that receives a grant under this subsection shall prepare and submit to the Secretary a status report not later than 7 months after the date on which the State or entity receives the grant and a final report not later than 18 months after the date on which the State or entity receives the grant. Each report shall document the progress of the State or entity in meeting the goals described in paragraph (3)(A)(i)(I).

(B) ALTERNATIVE FINANCING LOAN PROGRAM DATA REQUIRED.—A State or entity that receives a grant for an alternative financing loan program described in paragraph (6)(A) shall include in each report loan data with respect to the program for the period of the grant award, including—

(i) the number and dollar amount of loans made under that paragraph for—

(I) loan applications received;

(II) loan applications approved; and

(III) loan applications not approved;

(ii) the default rate of the loans;

(iii) the range of interest rates and average interest rate for the loans;

(iv) the range of income and average income of approved loan applicants for the loans;

(v) the types and dollar amounts of assistive technology financed through the loans; and

(vi) the outcomes of the loan program, including information relevant to the benefits to individuals utilizing the program.

(C) DEVICE LOAN PROGRAMS DATA REQUIRED.—A State that receives a grant for an device loan program described in paragraph (6)(B) shall include in each report loan data with respect to the program for the period of the grant award, including—

(i) the number and type of assistive technology devices loaned under that paragraph;

(ii) the general characteristics of borrowers (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors);

(iii) the purposes for which the loans were made; and

(iv) the outcomes of the loans, including information relevant to the benefits to individuals utilizing the program.

(8) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authority of a State to establish an alternative financing system under section 4.

(b) PROJECTS OF NATIONAL SIGNIFICANCE.—

(1) COMPETITIVE GRANT FOR DEVELOPMENT OF A NATIONAL PUBLIC-AWARENESS TOOLKIT.—

(A) PURPOSE.—The purpose of this paragraph is to support the development of a national public-awareness toolkit for dissemination to State assistive technology programs, in order to expand public-awareness efforts to reach targeted individuals and entities, as defined in subparagraphs (A), (B), (D), (F), (G), and (I) of section 3(18).

(B) COMPETITIVE TECHNICAL ASSISTANCE GRANT AUTHORIZED.—The Secretary may award a grant on a competitive basis to an eligible partnership, to enable the partnership to carry out the activities described in subparagraph (A).

(C) ELIGIBLE PARTNERSHIP.—To be eligible to receive the grant, the partnership—

(i) shall consist of—

(I) an implementing entity for a State assistive technology program or an organization or association that represents implementing entities for State assistive technology programs;

(II) a private or public entity from the media industry;

(III) a private entity from the assistive technology industry; and

(IV) a private employer or an organization or association that represents private employers; and

(ii) may include another entity determined by the Secretary to be appropriate.

(D) APPLICATIONS.—To be eligible to receive a grant under this paragraph, a partnership shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(E) USE OF FUNDS.—A partnership that receives a grant under this paragraph shall use the funds made available through the grant to develop a national public-awareness toolkit, which shall contain appropriate multimedia materials to reach targeted individuals and entities, as defined in subparagraphs (A), (B), (D), (F), (G), and (I) of section 3(18), for dissemination to State assistive technology programs.

(2) RESEARCH, DEVELOPMENT, AND EVALUATION.—

(A) COMPETITIVE RESEARCH, DEVELOPMENT, AND EVALUATION GRANTS AUTHORIZED.—The Secretary may award grants to eligible entities to carry out research, development, and evaluation of assistive technology.

(B) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this paragraph shall include—

(i) providers of assistive technology services and assistive technology devices;

(ii) public and private educational agencies serving students in kindergarten, elementary school, or secondary school;

(iii) institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service authorized under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or such institutions offering rehabilitation engineering programs, computer science programs, or information technology programs;

(iv) manufacturers of assistive technology and accessible information technology and telecommunications;

(v) consumer organizations concerned with assistive technology;

(vi) professionals, organizations, and agencies, providing services to individuals with disabilities; and

(vii) professionals, individuals, and organizations, providing employment services to individuals with disabilities.

(C) PRIORITY ACTIVITIES.—In awarding such grants, the Secretary shall give priority to funding projects that address 1 or more of the following:

(i) Developing standards for reliability and accessibility of assistive technology, and standards for interoperability (including open standards) of assistive technology with information technology, telecommunications products, and other assistive technology.

(ii) Developing and implementing measurements and tools that evaluate assistive technology for—

(I) conformity with reliability, accessibility and interoperability standards developed under clause (i);

(II) usability by individuals with disabilities to meet functional needs; or

(III) other characteristics that support increased functional performance of assistive technology.

(iii) Developing assistive technology that benefits individuals with disabilities or developing technologies or practices that result in the adaptation, maintenance, servicing, or improvement of assistive technology devices.

(D) INPUT.—An entity that receives a grant under this paragraph shall, in developing and implementing the project carried out through the grant, coordinate activities with the implementing entity for the State assistive technology program (or a national organization that represents such programs) and the State advisory council described in section 4(c)(2) (or a national organization that represents such councils).

(E) REPORT.—The entity shall prepare and submit a report to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(3) PERSONNEL PREPARATION CENTERS.—

(A) GRANTS.—The Secretary shall award grants, on a competitive basis, to public and private entities and institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service established under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), to fund the establishment or expansion of personnel preparation centers.

(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this paragraph, an entity shall have—

(i) knowledge and skills to assess and evaluate the need for assistive technology devices and assistive technology services;

(ii) knowledge and skills to assist consumers in the selection and acquisition of the devices and services; and

(iii) experience training professionals in school districts, at early intervention service sites, and in adult service provider settings, in geographically diverse areas within the State.

(C) APPLICATION.—

(i) IN GENERAL.—To be eligible to receive a grant under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(ii) CONTENTS.—At a minimum, the application shall include—

(I) a description of the entity's knowledge and skills regarding assistive technology assessment and evaluation;

(II) a description of how the entity will collect training outcome data;

(III) a description of the manner in which the entity will carry out financial and programmatic responsibilities, including any shared responsibilities, in implementing the activities carried out under the grant;

(IV) a description of the relationship between the entity and school personnel, early intervention service personnel, and adult service provider personnel in the State; and

(V) a description of an advisory committee designated or established under subparagraph (E).

(D) USE OF FUNDS.—An entity that receives a grant under this paragraph shall use the funds made available through the grant to carry out the activities described in subparagraph (B).

(E) ADVISORY COMMITTEE.—

(i) IN GENERAL.—A council (which may be the advisory council described in section 4(c)(2)) shall be designated to serve as an advisory committee, or an advisory committee shall be established, to make recommendations for the training to be offered through the grant, the specific populations to receive the training, and the reporting requirements applicable to the entity under subparagraph (F).

(ii) COMPOSITION.—At a minimum, such advisory committee shall be composed of—

(I) consumers of assistive technology services and assistive technology devices;

(II) providers of assistive technology services and assistive technology devices;

(III) the implementing entity for the State assistive technology program; and

(IV) entities (other than the entity described in clause (i)) that receive grants under this paragraph.

(F) REPORTING REQUIREMENTS.—

(i) IN GENERAL.—An entity that receives a grant under this paragraph shall submit to the Secretary an annual report detailing outcomes achieved through activities carried out under the grant at such time, in such manner, and containing such information as the Secretary may require, after receiving the recommendations of the advisory committee described in subparagraph (E) for the entity.

(ii) CONTENTS.—At a minimum, the report shall include information on—

(I) the number and geographical distribution of teachers (broken down into general education and special education categories) and other school personnel who received training under this paragraph in the school year covered by the report;

(II) the number and geographical distribution of early intervention service personnel who received training under this paragraph in the year covered by the report; and

(III) the number and geographical distribution of adult service provider personnel who received training under this paragraph in the year covered by the report.

(4) PERIOD OF GRANTS.—The Secretary shall make grants under this subsection for periods of 12 months.

(5) CONDITIONS ON PROJECTS OF NATIONAL SIGNIFICANCE.—

(A) PAYMENTS TO PARTNERSHIPS AND ENTITIES.—Subject to the conditions specified in this paragraph, the Secretary shall make payments to the partnerships and entities that are selected to receive grants awarded under this subsection.

(B) OBLIGATION AND EXPENDITURE.—A partnership or entity that receives a grant under this subsection shall obligate and expend the funds made available through the grant during the period of the grant.

(C) MATCHING REQUIREMENT.—

(i) IN GENERAL.—With respect to the cost to be incurred by a partnership or entity that receives a grant under this subsection in carrying out the activities for which the grant was awarded, a partnership or entity that receives a grant under this subsection in an amount of more than $50,000 shall make available non-Federal contributions in an amount not less than $1 for every $3 of the portion of the grant amount that exceeds $50,000.

(ii) NON-FEDERAL CONTRIBUTIONS.—The partnership or entity may make the non-Federal contributions available in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 7. TRAINING, TECHNICAL ASSISTANCE, DATA-COLLECTION, REPORTING, AND INTERNET PROGRAMS.

(a) IN GENERAL.—In order to strengthen and support State assistive technology programs, and protection and advocacy systems authorized under section 5, the Secretary may award 1 or more grants, contracts, or cooperative agreements on a competitive basis under subsections (b) and (c) to provide training and technical assistance, and conduct data collection and reporting, about and for the State assistive technology programs and protection and advocacy systems.

(b) TRAINING AND TECHNICAL ASSISTANCE; DATA COLLECTION AND REPORTING.—

(1) STATE PROJECTS TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—

(A) IN GENERAL.—The Secretary shall award grants, contracts, and cooperative agreements to provide training and technical assistance concerning State assistive technology programs.

(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have personnel with—

(i) documented experience and expertise in administering State assistive technology programs, including developing, implementing, and administering the required and

discretionary activities described in sections 4 and 6(a); and

(ii) documented experience in and knowledge about banking, finance, and microlending.

(C) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(D) TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—In awarding the grant, contract, or cooperative agreement, the Secretary shall ensure that the recipient conducts a training and technical assistance program, taking into account the required input and collaborations described in subparagraph (E), through which the recipient—

(i) addresses State-specific information requests concerning assistive technology and accessible information technology and telecommunications from implementing entities for State assistive technology programs funded under this Act and public and private entities not funded under this Act, including—

(I) requests for information on effective approaches to developing, implementing, evaluating, and sustaining required and discretionary activities identified in sections 4 and 6(a), and requests for assistance in developing corrective action plans;

(II) requests for examples of Federal, State, and local policies, practices, procedures, regulations, interagency agreements, administrative hearing decisions, or legal actions that facilitate, and overcome barriers to, the provision of funding for, and access to, assistive technology devices, accessible information technology and telecommunications, and assistive technology services for individuals with disabilities; and

(III) other requests for training and technical assistance from State assistive technology programs funded under this Act and public and private entities not funded under this Act, and other assignments specified by the Secretary; and

(ii) provides State-specific and national training and technical assistance concerning assistive technology and accessible information technology and telecommunications to implementing entities for State assistive technology programs, including financing systems, funded under section 4, other entities funded under this Act (with respect to the required or discretionary activities that the entities carry out under this Act and especially with respect to the establishment or expansion, and administration (including evaluation and sustenance), of alternative financing loan programs under section 6(a)), and public and private entities not funded under this Act, including—

(I) annually providing a forum for exchanging information and promoting program and policy improvements in required activities of the State assistive technology programs;

(II) facilitating on-site and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect State assistive technology programs and individuals with assistive technology and accessible information technology and telecommunications needs;

(III) convening experts from State assistive technology programs to discuss and make recommendations with regard to national emerging issues of importance to individuals with assistive technology and accessible information technology and telecommunications needs;

(IV) sharing best practice and evidence-based practices among State assistive technology programs;

(V) maintaining an accessible website that includes a link to State assistive technology programs, Federal departments and agencies, and associations and developing a national toll-free number that links callers from a State with the State assistive technology program in their State;

(VI) developing or utilizing existing (as of the date of the award involved) model cooperative volume-purchasing mechanisms designed to reduce the financial costs of purchasing assistive technology for required and discretionary activities identified in sections 4 and 6(a), and reducing duplication of activities among State assistive technology programs; and

(VII) providing access to experts in the areas of banking, microlending, and finance, for implementing entities for State assistive technology programs and other entities funded under this Act to administer alternative financing loan programs, through site visits, teleconferences, and other means, to ensure access to information for entities that are carrying out new programs or programs that are not making progress in achieving the objectives of the programs.

(E) REQUIRED INPUT AND COLLABORATION.—In providing training and technical assistance under this paragraph, a recipient of a grant, contract, or cooperative agreement under this paragraph shall meet the following requirements:

(i) INPUT.—The recipient shall involve, in the planning and identification of priority issues and needs, the directors of State assistive technology programs and other individuals the Secretary determines to be appropriate, especially—

(I) individuals with disabilities who use, and understand the barriers to the acquisition of, assistive technology and accessible information technology and telecommunications;

(II) family members, guardians, advocates, and authorized representatives of such individuals;

(III) relevant employees from other Federal departments and agencies;

(IV) businesses; and

(V) venders and public and private researchers and developers.

(ii) COLLABORATION.—The recipient shall collaborate, in developing and implementing training and technical assistance activities identified as priorities, with other organizations, in particular—

(I) national organizations representing State assistive technology programs;

(II) organizations representing State officials and agencies engaged in the delivery of assistive technology and accessible information technology and telecommunications;

(III) the data-collection and reporting providers described in paragraph (2); and

(IV) other providers of national programs or programs of national significance funded under this Act.

(2) STATE PROJECTS DATA-COLLECTION AND REPORTING PROGRAM.—

(A) IN GENERAL.—The Secretary shall award grants, contracts, and cooperative agreements to conduct data collection and reporting concerning State assistive technology programs.

(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have personnel with—

(i) documented experience and expertise in administering State assistive technology programs;

(ii) experience in collecting and analyzing data associated with implementing required and discretionary activities;

(iii) expertise necessary to identify additional data elements needed to provide comprehensive reporting of State activities and outcomes; and

(iv) experience in utilizing data to provide annual reports to State policymakers.

(C) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(D) DATA-COLLECTION AND REPORTING PROGRAM.—In awarding the grant, contract, or cooperative agreement, the Secretary shall ensure that the recipient conducts a data-collection and reporting program that enhances and improves the operations and conduct of a State assistive technology program. The Secretary shall ensure that the recipient achieves that enhancement and improvement by using quantitative and qualitative data elements, measuring the outcomes of the required activities described in section 4(e), and measuring the accrued benefits of the activities to individuals who need assistive technology and accessible information technology and telecommunications.

(E) REQUIRED DATA ELEMENTS.—The core set of the data elements shall, at a minimum, include data elements for—

(i) the number and dollar amount of financial loans made;

(ii) the number and type of assistive technology device demonstrations provided;

(iii) the number and type of assistive technology devices loaned through device loan programs;

(iv) the number and estimated value of assistive technology devices exchanged, repaired, recycled, or re-utilized (including redistributed through device sales, loans, rentals, or donations) through device re-utilization programs;

(v)(I) the number and general characteristics of individuals who participated in training (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

(II) to the extent practicable, the geographic distribution of individuals who participated in training or technical assistance activities;

(vi) the amount and nature of technical assistance provided to State and local agencies and other entities;

(vii) the number of individuals assisted through the public-awareness activities and statewide information and reference system;

(viii) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under section 4;

(ix) the outcomes of interagency coordination and collaboration activities carried out by the State that support access to assistive technology;

(x) measured outcomes of activities undertaken to improve access to assistive technology devices and assistive technology services for targeted populations;

(xi) the outcomes of the services provided; and

(xii) the level of customer satisfaction with, or the outcomes of, the services provided.

(F) REQUIRED INPUT AND COLLABORATION.—In conducting data-collection and reporting activities under this paragraph, a recipient of a grant, contract, or cooperative agreement under this paragraph shall meet the following requirements:

(i) INPUT.—The recipient shall actively involve, in the development of the data-collection and reporting system, the directors of State assistive technology programs and

other individuals the Secretary determines to be appropriate, especially—

(I) individuals with disabilities who use, and understand the barriers to the acquisition of, assistive technology and accessible information technology and telecommunications;

(II) family members, guardians, advocates, and authorized representatives of such individuals;

(III) relevant employees from other Federal departments and agencies;

(IV) businesses; and

(V) venders and public and private researchers and developers.

(ii) COLLABORATION.—The recipient shall actively collaborate, in developing and implementing the system, with other organizations, in particular—

(I) national organizations representing State assistive technology programs;

(II) the training and technical assistance providers described in paragraph (1); and

(III) entities carrying out projects of national significance funded under section 6(b), as appropriate.

(3) STATE PROTECTION AND ADVOCACY SERVICES TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—

(A) GENERAL AUTHORITY.—The Secretary shall award grants, contracts, and cooperative agreements to provide training and technical assistance concerning protection and advocacy services.

(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph to provide training and technical assistance, an entity shall have personnel with documented experience related to protection and advocacy services.

(C) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(D) TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—

(i) TECHNICAL ASSISTANCE EFFORTS.—In awarding the grant, contract, or cooperative agreement, the Secretary shall ensure that the recipient conducts a technical assistance program through which the recipient—

(I) provides advocacy-related and management-related technical assistance;

(II) prepares publications, in numerous formats, on the funding of assistive technology through a variety of funding sources;

(III) makes available, through in-house resource libraries, documents related to the funding of assistive technology;

(IV) maintains a project website containing information concerning the funding of assistive technology, and containing publications and links to other web-based resources to support assistive technology advocacy efforts; and

(V) maintains a national assistive technology list serve.

(ii) TRAINING EFFORTS.—In awarding the grant, contract, or cooperative agreement, the Secretary shall ensure that the recipient conducts a training program through which the recipient—

(I) provides advocacy-related training through annual statewide or regional conferences and distance-training events; and

(II) provides management-related training at annual training events, assisting protection and advocacy managers and fiscal officers to meet grant obligations.

(iii) DATA COLLECTION AND REPORTING.—The recipient shall prepare and submit to the Secretary a report containing information on the activities carried out under this paragraph, including information on the following:

(I) Non-case services.

(II) Case services.

(III) Statistical information for individuals served.

(IV) Systemic activities and litigation.

(V) Priorities and objectives.

(VI) Agency administration.

(c) NATIONAL INFORMATION INTERNET SYSTEM.—

(1) IN GENERAL.—In order to provide information nationally on the availability of assistive technology, the Secretary may award 1 grant, contract, or cooperative agreement on a competitive basis to maintain, renovate, and update the National Public Internet Site established under section 104(c)(1) of the Assistive Technology Act of 1998 (29 U.S.C. 3014(c)(1)), as in effect on the date of enactment of this Act.

(2) ELIGIBLE ENTITY.—To be eligible to receive a grant, contract, or cooperative agreement under paragraph (1), an entity shall be a nonprofit organization, for-profit organization, or institution of higher education, that—

(A) emphasizes research and engineering;

(B) has a multidisciplinary research center; and

(C) has demonstrated expertise in—

(i) working with assistive technology, accessible information technology and telecommunications, and intelligent agent interactive information dissemination systems;

(ii) managing libraries of assistive technology, accessible information technology and telecommunications, and disability-related resources;

(iii) delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

(iv) developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

(v) developing and designing advanced Internet sites.

(3) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(4) NATIONAL PUBLIC INTERNET SITE.—

(A) FEATURES OF INTERNET SITE.—The National Public Internet Site shall contain the following features:

(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources and accessible information technology and telecommunications.

(iii) RESOURCES.—

(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology and accessible information technology and telecommunications for all environments, including home, workplace, transportation, and other environments.

(II) INFORMATION ON ACCOMMODATING INDIVIDUALS WITH DISABILITIES.—The site shall include access to evidence-based research and best practices concerning how assistive technology and accessible information technology and telecommunications can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

(III) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills and cognitive disabilities.

(iv) LINKS TO PRIVATE-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

(v) LINKS TO PUBLIC-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitation Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, and the Technology Administration of the Department of Commerce, the accessible website described in subsection (b)(1)(D)(ii)(V), the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

(B) MINIMUM LIBRARY COMPONENTS.—At a minimum, the National Public Internet Site shall maintain updated information on—

(i) State assistive technology program demonstration sites where individuals may try out assistive technology devices;

(ii) State assistive technology program device loan program sites where individuals may borrow assistive technology devices;

(iii) State assistive technology program device re-utilization program sites;

(iv) alternative financing programs or systems operated through, or independently of, State assistive technology programs, and other sources of funding for assistive technology devices; and

(v) various tax credits available to employers for hiring or accommodating employees who are individuals with disabilities.

(5) INPUT.—While providing information (including technical assistance) under this subsection, the Secretary and recipient of the grant, contract, or cooperative agreement under this subsection shall consider the input of the directors of State assistive technology programs and other individuals the Secretary determines to be appropriate, especially—

(A) individuals with disabilities who use, and understand the barriers to the acquisition of, assistive technology and accessible information technology and telecommunications;

(B) family members, guardians, advocates, and authorized representatives of such individuals;

(C) relevant employees from other Federal departments and agencies involved in the procurement or development of assistive technology devices, or the provision of assistive technology services;

(D) employers of people with disabilities, especially small business employers; and

(E) venders and public and private researchers and developers.

SEC. 8. TECHNOLOGY INDUSTRY ASSESSMENT.

(a) IN GENERAL.—To better promote and serve the United States assistive technology industry, the Secretary may conduct a detailed assessment of the industry. Such assessment shall provide data and analysis

concerning the industry's market, products, and services, for better strategic and business modeling.

(b) CONTENTS.—The Secretary shall ensure that the assessment provides data and analysis including—

(1) data to better assess the industry's potential and provide metrics for future growth;

(2) information addressing strategies and certification practices of international trading partners; and

(3) details about programs within the Department of Commerce that facilitate assistive technology industry export efforts.

(c) CONSULTATION.—The Secretary shall conduct the assessment after consultation with the Under Secretary for Technology of the Department of Commerce members of the assistive technology industry, the Interagency Committee on Disability Research established under section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 763), and other appropriate agencies.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) GENERAL ADMINISTRATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Commissioner of the Rehabilitation Services Administration in the Office of Special Education and Rehabilitative Services of the Department of Education shall be responsible for the administration of this Act.

(2) COLLABORATION.—The Commissioner of the Rehabilitation Services Administration may make 1 or more grants to, or enter into 1 or more contracts, interagency agreements, or cooperative agreements with, the Director of the Office of Special Education Programs or the National Institute on Disability and Rehabilitation Research in the Office of Special Education and Rehabilitative Services of the Department of Education, the Assistant Secretary for Disability Employment Policy in the Department of Labor, the Under Secretary for Technology in the Department of Commerce, the Administrator of the Small Business Administration, or the head of any other entity approved by the Secretary to assist in the administration of this Act.

(3) ADMINISTRATION.—In administering this Act, the Commissioner of the Rehabilitation Services Administration shall ensure the provision of assistive technology, through comprehensive statewide programs of technology-related assistance, to individuals of all ages, whether the individuals will use the assistive technology to obtain or maintain employment or for other reasons.

(b) REVIEW OF PARTICIPATING ENTITIES.—The Secretary shall assess the extent to which entities that receive grants under this Act are complying with the applicable requirements of this Act and achieving goals that are consistent with the requirements of the grant programs under which the entities received the grants.

(c) CORRECTIVE ACTION AND SANCTIONS.—

(1) CORRECTIVE ACTION.—If the Secretary determines that an entity that receives a grant under this Act fails to substantially comply with the applicable requirements of this Act, the Secretary shall assist the entity, through technical assistance funded under section 7 or other means, within 90 days after such determination, to develop a corrective action plan.

(2) SANCTIONS.—If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Secretary:

(A) Partial or complete termination of funding under the grant program.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in funding for the following year under the grant program.

(D) Required redesignation of the lead agency designated under section 4(c)(1).

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for entities that are determined to be in noncompliance with the applicable requirements of this Act.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the enforcement authority of the Secretary, another Federal officer, or a court under part E of the General Education Provisions Act (20 U.S.C. 1234 et seq.) or other applicable law.

(e) EFFECT ON OTHER ASSISTANCE.—This Act may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE GRANTS FOR ASSISTIVE TECHNOLOGY; TRAINING, TECHNICAL ASSISTANCE, DATA-COLLECTION, REPORTING, AND INTERNET PROGRAMS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out sections 4 and 7 $36,000,000 for fiscal year 2005, and such sums as may be necessary for each of fiscal years 2006 through 2010.

(2) TRAINING, TECHNICAL ASSISTANCE, DATA-COLLECTION, REPORTING, AND INTERNET PROGRAMS.—

(A) IN GENERAL.—Of the amount appropriated under this subsection for a fiscal year, not more than $1,235,000 may be made available to carry out section 7.

(B) RESERVATIONS.—Of the amount made available to carry out section 7 for a fiscal year—

(i) not less than 45 percent shall be made available to carry out section 7(b)(1);

(ii) not less than 20 percent shall be made available to carry out section 7(b)(2);

(iii) not less than 15 percent shall be made available to carry out section 7(b)(3); and

(iv) not more than 20 percent shall be made available to carry out section 7(c).

(b) STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.—There are authorized to be appropriated to carry out section 5 $4,419,000 for fiscal year 2005 and such sums as may be necessary for each of fiscal years 2006 through 2010.

(c) SUPPLEMENTARY GRANTS AND PROJECTS OF NATIONAL SIGNIFICANCE.—There are authorized to be appropriated to carry out section 6 such sums as may be necessary for each of fiscal years 2005 through 2010.

SEC. 11. REPEAL.

The Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) is repealed.

Mr. HARKIN. Mr. President, today I join with my colleague from New Hampshire, Senator GREGG, and others to introduce the Assistive Technology Act of 2004.

Assistive technology and accessible information technology and telecommunication are so critical to the lives of people with disabilities. An NOD/Harris poll released today shows that 35 percent of individuals with disabilities surveyed indicated that they would not be able to take care of themselves at home without assistive technology. Over a quarter of individuals with disabilities reported that they would not be able to get around outside of their homes. Assistive technology and accessible information technology and telecommunication also provide opportunities in education, employment and civic and social participation that would not otherwise be available to some individuals with disabilities.

To quote the National Council on Disability—''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.''

The Assistive Technology Act that we introduce today builds upon the successes of this law, dating back to 1988. The state Assistive Technology programs have been very effective in providing information, training, and technical assistance to a wide array of individuals in their states, including people with disabilities, their families, educators, health care professionals and others. The Assistive Technology Act has also authorized alternate finance programs that have offered low interest loans and other financing to people with disabilities who otherwise could not access the funds needed to buy their assistive technology.

The most recent data available, FY 02, indicates that the programs are making a substantial difference in their states. In that year, there were 92,000 equipment demonstrations provided, 38,000 devices loaned to individuals with disabilities and over 6,000 devices exchanged or recycled. Also over 6 million dollars was loaned to individuals with disabilities so they could purchase assistive technology, ranging from a hearing device to an accessible van. The AT programs also provided needed information to a wide array of individuals, answering 151,000 requests for assistance and training over 172,000 people.

In this reauthorization, we strengthen this successful program and provide authorization for increased appropriations to carry out the many activities that are needed in the states. We emphasize programs that will improve access to assistive technology devices and also increase attention to some federal priorities, including improving education, promoting community integration, and increasing employment opportunities for individuals with disabilities.

While there are many important initiatives in this bill, I will highlight a few of the most significant.

First, the bill authorizes a minimum of $500,000 for each state program and includes an authorization of 36 million dollars in 2005 which would allow each state to receive that minimum. These funds will be used to support all of the activities specified in the law.

The bill also strengthens some of the core functions of the state assistive technology programs, focusing training and technical assistance to ensure statewide access to information and an emphasis on skills development and technical training to improve service planning for individuals with disabilities.

It further requires States focus their efforts on one of three target populations. These populations include 1. elementary and secondary school students, providers and related personnel; 2. adult service provider clients, providers and related personnel; and 3. employees, employment providers, and related personnel.

States will be required to focus their energies on service planning for one of these populations so we can ensure that assistive technology is getting out to where it is needed most—in the schools, on the job and in the community. The Senate has recently passed the Individuals with Disabilities Act and the Workforce Investment Act and we continue to be concerned about implementation of the ADA and the Olmstead decision. This targeted effort aligns the Assistive Technology Act with these other initiatives.

The bill includes provisions designed to increase access to assistive technology and accessible information technology and telecommunications by requiring that assistive technology programs operate equipment loan, device reutilization, device demonstration, and financing systems. The bill also seeks to improve information about service providers and vendors of assistive technology and accessible information technology.

Because individuals with disabilities still experience significantly fewer employment opportunities than individuals without disabilities, the bill places an emphasis on educating and targeting employers and employees. One of the projects of national significance authorized in the bill includes development of public service announcements and other means of reaching employers and others with information regarding assistive technology.

For the first time, the bill addresses the need to coordinate state program activities with the businesses that develop and produce much of the assistive technology and accessible information technology. The bill authorizes a project of national significance in research and development and authorizes the Secretary to conduct a detailed assessment of the assistive technology industry.

The bill also recognizes the ongoing contribution of protection and advocacy services in making assistive technology available to individuals with disabilities and increases minimum authorization levels for this important function. Iowa has had a very successful advocacy program, which will be continued under this bill.

These are just a few of the many significant issues addressed in this bill. It is a very comprehensive effort due to the hard work of the many stakeholders that participated.

I want to thank my colleague, Senator GREGG, and his staff, particularly Aaron Bishop and Annie White, for their work on this bipartisan initiative. I also want to recognize the work of Senators KENNEDY, ROBERTS, REED and WARNER and their staff members, Kent Mitchell, Connie Garner, Jennifer Swenson, Elyse Wasch, Erica Swanson, and John Robinson because this has truly been a collaborative and bipartisan effort to reauthorize this important legislation.

As part of this reauthorization process, committee staff have had extensive bipartisan briefings and met with a very wide array of stakeholders. Stakeholders also participated in work groups designed to forge consensus on many of the issues addressed in this bill. As a result, I believe we have a very strong bill. I want to thank the many individuals with disabilities, family members, assistive technology programs, vendors, members of the information technology industry, the financial and business community, service providers, advocates, educators and others who gave generously of their time and worked so hard on this bill.

This bill continues the tradition of bipartisan cooperation that has marked significant disability legislation. Just as the ADA, IDEA and other bills have been bipartisan, so is this Assistive Technology Act of 2004. I look forward to moving ahead and getting it enacted into law.

Mr. KENNEDY. Mr. President, I am proud to join Senators Gregg and Harkin in the introduction of the Assistive Technology Act of 2004, which will continue and expand our Nation's promise to improve access to assistive technology for individuals in every State and territory.

In the Senate we are dedicated to breaking down barriers to equal education, to employment opportunities and to quality and affordable health care. Assistive technology enables people with disabilities to break down the physical and other barriers which prevent them from reaching their full potential.

For an individual with difficulty communicating, a hand-writing aid or a communication board can open up a whole new world of relationships. A wheelchair or scooter can give them the freedom to engage in activities otherwise impossible. And switches and other devices can transform their home into an accessible environment and allow them to perform daily household tasks essential to independent living.

Since 1988, the Assistive Technology Act has funded projects in every State and territory to raise awareness about the enormous potential of assistive technology, give individuals an opportunity to test products, and connect them with low-cost options for purchasing technology. Each project has a different focus, but all are providing these core services, and providing them well.

In Massachusetts, the Massachusetts Assistive Technology Project trains individuals with disabilities to be self-advocates. They monitor implementation of State and Federal laws. And they operate an Equipment Exchange Trading Post for individuals to exchange or sell assistive technology products. This is just a small sample of what they are doing. They deserve great credit, and so do the other projects across the nation.

The Assistive Technology Act of 2004 makes a commitment to continue these projects. It asks them to perform device demonstrations, equipment loans, device refurbishment, and provide financing systems such as low-cost loan programs. It mandates a new focus on training local personnel who work every day with people with disabilities in adult service provider settings, in schools, and in employment settings. It gives States the flexibility to which populations to focus on, but asks that they work to make the promise of the Individuals with Disabilities Education Act, the Workforce Investment Act, and the Olmstead decision a reality.

I know they are up to the challenge, and I will work to ensure they have the resources to make it happen. To that end, the act authorizes additional resources and sets a higher minimum appropriation of $500,000 for each State project. It is vital that any final legislation include this recognition that these life-changing services need real resources.

I commend Senators GREGG, HARKIN, and REED for their hard work on this legislation. I also commend all of the disability advocates, organizations and project directors who informed this legislation. I look forward to working with them and my colleagues in the House of Representatives to get a bill signed into law this year.

Mr. REED. Mr. President, I rise as an original cosponsor of the Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004. This important legislation reauthorizes the Assistive Technology, AT, Act, which helps States strengthen their capacity to address the assistive technology needs of individuals with disabilities and supports loan and device demonstration programs, for six years.

This legislation improves current law in several ways which will help individuals with disabilities gain access to the assistive technology devices and services that will help them lead full and productive lives. Importantly, the legislation removes the sunset provision included in the last reauthorization and increases the minimum State allotment to $500,000, ensuring that all States can continue this vital work. Assistive technology devices and services are increasingly necessary, particularly as our population ages and for soldiers returning from battle with injuries that used to be life ending.

I am particularly pleased that this legislation contains language I sought to address areas of need that I heard from assistive technology users, providers, advocates, and administrators in my State of Rhode Island. First, the bill enhances training activities to improve the capacity of local education,

early intervention, adult providers, and employers to assess, implement, and integrate AT devices. Secondly, funding is authorized for inventing and developing new AT devices and adapting, maintaining, servicing, and improving existing AT devices. Finally, the bill makes great strides to promote interagency coordination and collaboration to effectively deliver assistive technology devices and services.

I want to thank Senators GREGG, KENNEDY, and HARKIN for working so closely with me and my staff on this bill. It is my hope that we will be able to maintain this same cooperative, bipartisan spirit in which this bill was crafted as the reauthorization process moves forward.

By Mr. SCHUMER (for himself, Ms. MIKULSKI, Mr. CORZINE, Mrs. CLINTON, Mr. LEAHY, Ms. STABENOW, Mr. SARBANES, and Mr. NELSON of Florida)

S. 2597. A bill to require the Secretary of Health and Human Services to establish and maintain an Internet website that is designed to allow consumers to compare the usual and customary prices for covered outpatient drugs sold by retail pharmacies that participate in the medicaid program for each postal Zip Code, and for other purposes; to the Committee on Finance.

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. 2597

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 ''Prescription Drug Price Comparison for Savings Act of 2004''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Access to prescription drugs is important to all Americans.

(2) Many individuals cannot afford to purchase the drugs prescribed by their doctors. Others skip doses or split pills contrary to their doctor's orders because they cannot afford to refill their prescriptions.

(3) Individuals who use their limited financial resources to obtain needed drugs may do so by foregoing other expenditures important to their health and well-being.

(4) Among the objectives of the medicaid program set forth in section 1901 of the Social Security Act (42 U.S.C. 1396) is the objective to enable each State to furnish services to help low-income families and aged, blind, or disabled individuals ''attain or retain capability for independence or self-care''.

(5) Some States, such as Maryland, have established interactive Internet websites that use the usual and customary price information reported by pharmacies participating in the State's medicaid program to allow all residents of the State to comparison shop for prescription drugs.

(6) Requiring all States to collect from pharmacies that participate in the medicaid program the usual and customary price for prescription drugs sold by the pharmacies and to report that information to the Secretary of Health and Human Services in order that a national, interactive Internet website may be established and maintained for individuals to use to comparison shop for prescription drugs is consistent with the objectives of the medicaid program.

SEC. 3. STATE PLAN REQUIREMENT TO COLLECT AND REPORT USUAL AND CUSTOMARY PRICES FOR COVERED OUTPATIENT DRUGS SOLD UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking ''and'' at the end;

(2) in paragraph (67), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (67), the following:

''(68) provide that the State shall—

''(A) require each retail pharmacy which receives payments under the plan to report to the State concurrent with the filling of a prescription for a covered outpatient drug (as defined in section 1927(k)(2)) for an individual receiving medical assistance under this title—

''(i) the usual and customary price (as defined in section 1927(k)(10)) for the strength, quantity, and dosage form of the covered outpatient drug, as of the date the prescription is filled; and

''(ii) the postal Zip Code in which the retail pharmacy is located; and

''(B) submit the information reported under subparagraph (A) to the Secretary on such frequent basis as the Secretary shall require so as to allow for monthly updates of the information posted on the Internet website required to be established under section 5 of the Prescription Drug Price Comparison for Savings Act of 2004.''.

SEC. 4. USUAL AND CUSTOMARY PRICES FOR COVERED OUTPATIENT DRUGS.

(a) DEFINITION.—Section 1927(k) of the Social Security Act (42 U.S.C. 1396r–8(k)) is amended by adding at the end the following:

''(10) USUAL AND CUSTOMARY PRICE.—The term 'usual and customary price' means the price a retail pharmacy would charge an individual who does not have health insurance coverage for purchasing a specific strength, quantity, and dosage form of a covered outpatient drug.''.

(b) INCLUSION OF INFORMATION IN ANNUAL REPORT TO CONGRESS.—Section 1927(i)(2)(E) of the Social Security Act (42 U.S.C. 1396r–8(i)(2)(E)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D), the following:

''(E) the range of usual and customary prices for specific strengths, quantities, and dosage forms of covered outpatient drugs, disaggregated by postal Zip Code;''.

SEC. 5. REQUIREMENT TO ESTABLISH AND MAINTAIN PRESCRIPTION DRUG PRICE COMPARISON WEBSITE.

(a) AUTHORITY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish and arrange for the maintenance of an Internet website that is designed to allow an individual to compare the usual and customary prices for a range of strengths and quantities of covered outpatient drugs sold by retail pharmacies that receive payments under the medicaid program for each postal Zip Code that corresponds to an area of a State.

(b) REQUIREMENTS.—The Internet website required to be established and maintained under this section shall consist of—

(1) the information submitted to the Secretary in accordance with section 1902(a)(68)(B) of the Social Security Act (42 U.S.C. 1396a(a)(68)(B)) (as added by section 3(a)(3)); and

(2) such other information as the Secretary determines is appropriate.

(c) DEFINITIONS.—In this section:

(1) COVERED OUTPATIENT DRUG.—The term ''covered outpatient drug'' has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(3) STATE.—The term ''State'' has the meaning given that term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

By Mr. AKAKA (for himself, Mr. LAUTENBERG, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, and Mr. INOUYE):

S.2598. A bill to protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive species, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Public Land Protection and Conservation Act of 2004. I am pleased to have my esteemed colleagues Senator FRANK LAUTENBERG, Senator CARL LEVIN, Senator DIANNE FEINSTEIN, Senator DANIEL INOUYE, and Senator RON WYDEN cosponsoring the bill with me. This legislation encourages Federal, State, and local agencies, non-governmental entities, and Indian tribes to work together through a cost-shared, cooperative grant program to control the spread of terrestrial invasive species. The bill authorizes the Secretary of the Interior to provide state assessment grants to inventory and prioritize invasive species problems. It provides additional grants to control invasive species on Federal land or adjacent areas. And most importantly, it provides rapid response funds for states to eradicate serious new outbreaks.

Invasive species cause devastating environmental, human health, and economic consequences throughout the Nation and world. They are responsible for damage to native ecosystems and vital industries, such as agriculture, fisheries, and ranching. The impacts of invasive species are estimated to cost the United States at least $100 billion each year. Invasive species threaten the existence of 42 percent of threatened and endangered species in the United States, and this is an issue that must be confronted.

The implications of the nationwide invasive species problem are enormous. Nowhere, however, are the impacts greater than in my home State of Hawaii, which has always been known for its biodiversity. Approximately 11,000 species are believed to have evolved from roughly 20,000 ancestors that successfully colonized at a rate of one every 35,000 years. Today, 20 to 50 new nonnative species arrive in Hawaii every year.

In total, unwanted alien pests are entering Hawaii at a rate that is about

two million times more rapid than the natural rate. Nonnative, invasive species comprise roughly 20 percent of the plants and animals in Hawaii. Invasive species are the number one cause of the decline of Hawaii's threatened and endangered species. This is a serious concern because Hawaii has more than 10,000 species found nowhere else on Earth. Of the 114 endangered species that have become extinct in the first 20 years of the Endangered Species Act, almost one-half were in Hawaii. The fragility of our native species is compounded by the fact that most introduced species have no natural predators in the state.

Let me give you just a few examples of invasive species problems in Hawaii. Control efforts for the Formosan ground termite are estimated to cost residents in Hawaii more than $150 million per year. Damage to our agricultural industry and the related control costs of the Mediterranean fruit fly are more than $450 million annually. Native birds in our rainforests are succumbing to malaria spread through introduced mosquitos.

Coqui frogs, accidentally imported on plants to Hawaii, can reach densities of 8,000 frogs per acre. Each one can produce a call at 90 decibels. The noise from 8,000 frogs at 90 decibels is equivalent to listening to a high-pitched jackhammer all night! Infestations of frogs are lowering property values and threatening Hawaii's export floriculture and nursery industries. Coqui frogs also consume more than 48,000 prey items per acre per night, depleting the food supply for threatened and endangered birds and spiders. Miconia, an invasive tree infesting over 15,000 acres of rainforest in Hawaii, eliminates the habitat of endangered plants and animals and causes serious erosion problems that threaten the water supply.

Miconia has overwhelmed all other species on these mountainsides. Miconia, like many invasives, is a major threat to native biodiversity.

The brown tree snake has invaded Guam and devastated native bird populations there. If it were to become established in Hawaii, economic costs have been estimated to exceed hundreds of millions of dollars.

Agriculture in Hawaii is threatened by the spread of the red imported fire ant, a serious problem in 14 southern states causing over $2 billion in annual damage. As you can see, the time to address the issue of invasive species is now, before there are even more serious problems.

My bill, the Public Land Protection and Conservation Act, authorizes the Secretary of the Interior to provide grants to states, nonprofit, and tribal entities to assess, control, and eradicate invasive species. There are three types of grants in this bill, one of which requires matching funds.

First, this legislation provides grants to states for assessment projects to identify, quantify, and prioritize invasive species threats. This step is a critical underpinning for invasives programs, but many states do not have the resources to carry out this assessment.

Second, the control grants supply appropriate public or private entities or Indian tribes with funding to carry out, in partnership with a Federal agency, an eradication, containment, or management project on Federal land or adjacent land. Control projects would receive a higher ranking for funding based on shared priorities in state and Federal plans, the extensiveness or severity of the invasive species impacts in a state, and whether the project fosters results through public-private partnerships, among other criteria.

Control grants are cost-shared with states. A maximum of 75 percent of funding shall be federally provided for control projects on adjacent land, with the exception of pilot or demonstration projects, or projects that conserve threatened or endangered species, which shall receive 85 percent federal funding. The Federal share of control projects carried out on Federal land shall be 100 percent.

Finally, rapid response funds, designated for States facing new outbreaks of invasive species, will provide timely resources to eradicate these organisms before they gain a foothold. Rapid response funds are critical to States in order to combat newly identified invasives.

The impacts of invasive species are already costing the United States an estimated $100 billion each year. The Department of the Interior, in its FY 2005 budget request acknowledges that invasive species pose an enormous threat to the ecological and economic health of the Nation. The Department states that the economic costs associated with invasive species are enormous already, and increasing. The Department of the Interior and U.S. Forest Service together received approximately $126 million in FY 2004, and the combined FY 2005 request is identical. Although I applaud the current efforts of the Department of the Interior and the U.S. Forest Service, we need a more coordinated attack on invasive species. The attack must have robust funding if we are to work in partnership with the states.

An estimated 5,000 to 6,000 invasive species are established in the United States. With 73 percent of the continental United States held in private lands, our Federal lands will not be adequately protected without public-private partnerships because invasive species know no boundaries.

My bill requires coordination between the National Invasive Species Council, the Department of the Interior, the U.S. Department of Agriculture, and state invasive species councils and plans. It provides the support necessary for agencies, organizations, and individuals to implement cooperative projects to address new threats and long-standing invasive species problems.

I am particularly pleased that the State of Hawaii is taking a leadership role in addressing invasive species problems as our State is intimately familiar with the serious impacts. Hawaii's Department of Land and Natural Resources, the State government, and each county's Invasive Species Councils are committed to a proactive approach to preserve the environmental heritage and economic security of our communities for generations to come. Each of these Councils now coordinates their activities on the State level through the formation of the Hawaii Invasive Species Council in 2003.

In addition to the Council, many public and private partnerships have been formed to protect our common natural resources. The East Maui Watershed Partnership brings together multiple public and private landowners and the County of Maui to control invasive species and protect 100,000 acres of our prime watershed areas. This is just one example of many highly successful and dedicated partnerships in Hawaii working to preserve our invaluable resources.

This legislation is supported by the State of Hawaii's Department of Land and Natural Resources, which has primary responsibility for land use, forests, wildlife and oceans. In his letter of support, the Chairperson of the DLNR, Mr. Peter Young, states that ''Increasing success in invasive species projects in Hawaii has come largely from the formation of strong partnerships between State, County and Federal agencies and private groups.'' The intent of this bill is to encourage partnerships like the East Maui Watershed Partnership and the Hawaii Invasives Species Council in their fight against invasives.

Most recently, the Hawaii State Legislature allocated $4 million of the $5 million requested by Governor Linda Lingle to support the Invasive Species Prevention and Control program. This request is part of the overall state proposal to earmark $20 million over the next four years. These actions demonstrate Hawaii's commitment to the problem. This money, however, is clearly not sufficient to control the nonnative species in Hawaii.

Despite their best efforts to reduce the devastation caused by invasive species, states lack the needed funds to adequately address this issue. The General Accounting Office (GAO) issued a report on September 5, 2003, documenting gaps and barriers in Federal invasive species legislation. The number one barrier identified in the report was insufficient Federal funding for state efforts to control invasive species. Another barrier identified was the inadequate amount of general information and research on invasive species. My legislation will provide States the desperately needed funding to start a serious battle against invasive species.

The GAO report also recommended authorizing the National Invasive Species Council as the most effective leadership structure for managing invasive species. I applaud Senators LEVIN and

DEWINE for addressing this issue in legislation they have introduced during the 108th Congress, the National Aquatic Invasive Species Act of 2003. I am a cosponsor of their bill, S. 525, because aquatic invasives are important in Hawaii. I am also a cosponsor of Senator LARRY CRAIG's Noxious Weed Control Act of 2003, S. 144, that focuses on terrestrial weeds. My bill, the Public Land Protection and Conservation Act of 2004, will fill a needed gap by addressing all invasive organisms, flora and fauna, in and around federal lands through public-private partnerships.

The National Environmental Coalition on Invasive Species, a coalition of representatives from major environmental organizations, has extended its full support for this legislation. Its letter of support calls this bill ''one of the best legislative proposals to date to deal with the growing threat that invasive species pose to our nation's ecological and economic health.'' The bill is also supported by The Conservation Council of Hawaii, the National Wildlife Federation affiliate in Hawaii. I greatly appreciate their endorsements.

Lastly, I want to acknowledge my colleague in the House, Representative NICK RAHALL, for recognizing the gaps in national legislation for controlling and eradicating invasive species on Federal and adjacent lands through cooperative grants. He introduced H.R. 2310, the Species Protection and Conservation of the Environment Act, on June 3, 2003. His legislation provided a solid blueprint that inspired my bill, and I am eager to join him in the eradication of invasive species on Federal and adjacent lands.

There are increasingly severe problems and economic burdens associated with invasive species in our nation. Federal support to states to combat this problem at the ground level is crucial. If ever there was a time to commit to defending the security of our domestic resources for the future, it is now.

I ask unanimous consent that 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. 2598

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 ''Public Land Protection and Conservation Act of 2004''.

SEC. 2. PURPOSE.

The purpose of this Act is to encourage partnerships among Federal, State, and local agencies, nongovernmental entities, and Indian tribes to protect, enhance, restore, and manage public land and adjacent land through the control of invasive species by—

(1) promoting the development of voluntary State assessments to establish priorities for controlling invasive species;

(2) promoting greater cooperation among Federal, State, and local land and water managers and owners of private land or other interests to implement strategies to control and mitigate the spread of invasive species through a voluntary and incentive-based financial assistance grant program;

(3) establishing a rapid response capability to combat incipient invasive species invasions; and

(4) modifying the requirements applicable to the National Invasive Species Council.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONTROL.—The term ''control'' means—

(A) eradicating, suppressing, reducing, or managing invasive species in areas in which the species are present;

(B) taking steps to detect early infestations of invasive species on Public land and adjacent land that is at risk of being infested; and

(C) restoring native ecosystems to reverse or reduce the impacts of invasive species.

(2) COUNCIL.—The term ''Council'' means the National Invasive Species Council established by section 3 of Executive Order No. 13112 (64 Fed. Reg. 6184).

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) INVASIVE SPECIES.—The term ''invasive species'' means, with respect to a particular ecosystem, any animal, plant, or other organism (including biological material of the animal, plant, or other organism that is capable of propagating the species)—

(A) that is not native to the ecosystem; and

(B) the introduction of which causes or is likely to cause economic harm, environmental harm, or harm to human health.

(5) NATIONAL MANAGEMENT PLAN.—The term ''National Management Plan'' means the management plan referred to in section 5 of Executive Order No. 13112 (64 Fed. Reg. 6185) and entitled ''Meeting the Invasive Species Challenge''.

(6) PUBLIC LAND.—The term ''Public land'' means all land and water that is—

(A) owned by, or under the jurisdiction of, the United States; and

(B) administered by the Department of the Interior or the Forest Service.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STATE.—The term ''State'' means—

(A) a State of the United States;

(B) the District of Columbia;

(C) the Commonwealths of Puerto Rico and the Northern Mariana Islands;

(D) the Territories of American Samoa, Guam, and the Virgin Islands;

(E) the Federated States of Micronesia;

(F) the Republic of the Marshall Islands; and

(G) the Republic of Palau.

SEC. 4. NATIVE HERITAGE ASSESSMENT AND CONTROL GRANT PROGRAM.

(a) ASSESSMENT GRANTS.—The Secretary may provide to a State a grant to carry out an assessment project consistent with relevant invasive species management plans of the State to—

(1) identify invasive species that occur in the State;

(2) survey the extent of invasive species in the State;

(3) assess the needs to restore, manage, or enhance native ecosystems in the State;

(4) identify priorities for actions to address those needs;

(5) incorporate, as applicable, the guidelines of the National Management Plan; and

(6) identify methods to—

(A) control or detect incipient infestations of invasive species in the State; or

(B) control or assess established populations of invasive species in the State.

(b) CONTROL GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants to appropriate public or private entities and Indian tribes to carry out, in partnership with a Federal agency, control projects for the management or eradication of invasive species on Public land or adjacent land that—

(A) include plans for—

(i) monitoring the project areas; and

(ii) maintaining effective control of invasive species after the completion of the projects, including through the conduct of restoration activities;

(B) in the case of a project on adjacent land, are carried out with the consent of the owner of the adjacent land; and

(C) provide public notice to, and conduct outreach activities relating to the control projects in, communities in which control projects are carried out.

(2) PRIORITY.—In prioritizing grants for control projects, the Secretary shall consider—

(A) the extent to which a project would address—

(i) the priorities of a State for invasive species control; and

(ii) the priorities for invasive species management on Public land, such as the priorities for management on National Park System and National Forest System land;

(B) the estimated number of, or extent of infestation by, invasive species in the State;

(C) whether a project would encourage increased coordination and cooperation among 1 or more Federal agencies and State or local government agencies to control invasive species;

(D) whether a project—

(i) fosters public-private partnerships; and

(ii) uses Federal resources to encourage increased private sector involvement, including the provision of private funds or in-kind contributions;

(E) the extent to which a project would aid the conservation of species included on Federal or State lists of threatened or endangered species;

(F) whether a project includes pilot testing or a demonstration of an innovative technology that has the potential to improve the cost-effectiveness of controlling invasive species; and

(G) the extent to which a project—

(i) considers the potential for unintended consequences of control methods on native species; and

(ii) includes contingency measures to address the unintended consequences.

(c) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) not later than 180 days after the date on which funds are made available to carry out this Act, publish guidelines and solicit applications for grants under this section;

(2) not later than 1 year after the date on which funds are made available to carry out this Act, evaluate and approve or disapprove applications for grants submitted under this section;

(3) consult with the Council on—

(A) any projects proposed for grants under this section, including the priority of proposed projects for the grants; and

(B) providing a definition of the term ''adjacent land'' for purposes of the control grant program under subsection (b);

(4) consult with the advisory committee established under section 3(b) of Executive Order No. 13112 (64 Fed. Reg. 6184) on projects proposed for a grant under this section, including the scientific merit, technical merit, and feasibility of a proposed project; and

(5) if a project is conducted on National Forest System land, consult with the Secretary of Agriculture.

(d) GRANT DURATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall provide funding for the Federal share of the cost of a project for not more than 2 fiscal years.

(2) RENEWAL OF CONTROL PROJECTS.—

(A) IN GENERAL.—If the Secretary, after reviewing the reports submitted under subsection (f) with respect to a control project, finds that the project is making satisfactory progress, the Secretary may renew a grant under this section for an additional 3 fiscal years.

(B) IMPLEMENTATION OF MONITORING AND MAINTENANCE PLAN.—The Secretary may renew a grant under this section to implement the monitoring and maintenance plan required for a control project under subsection (b) for not more than 10 years after the project is otherwise complete.

(e) DISTRIBUTION OF CONTROL GRANT AWARDS.—In making grants for control projects under subsection (b), the Secretary shall, to the maximum extent practicable, ensure that—

(1) at least 50 percent of control project funds are spent on land adjacent to Public land; and

(2) there is a balance of smaller and larger control projects conducted with grants under that subsection.

(f) REPORTING BY GRANT RECIPIENT.—

(1) ASSESSMENT PROJECTS.—Not later than 2 years after the date on which a grant is provided under subsection (a), a grant recipient carrying out an assessment project shall submit to the Secretary and the Governor of the State in which the assessment project is carried out a report on the assessment project.

(2) CONTROL PROJECTS.—A grant recipient carrying out a control project under subsection (b) shall submit to the Secretary—

(A) an annual synopsis of the control project; and

(B) a report on the control project not later than the earlier of—

(i) at least once every 2 years; or

(ii) the date on which the grant expires.

(3) CONTENTS.—A report submitted under this subsection shall include—

(A) a detailed accounting of—

(i) the funding made available for the project; and

(ii) any expenditures made for the project; and

(B) with respect to a control project—

(i) a chronological list of any progress made with respect to the project;

(ii) specific information on the methods and techniques used to control invasive species in the project area;

(iii) trends in the population size and distribution of invasive species in the project area; and

(iv) the number of acres of the native ecosystem protected or restored.

(g) COST-SHARING REQUIREMENT.—

(1) PROJECTS ON ADJACENT LAND.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a control project carried out on adjacent land shall be not more than 75 percent.

(B) CERTAIN CONTROL PROJECTS.—The Federal share of a control project carried out on adjacent land that uses pilot testing, demonstrates an innovative technology, or provides for the conservation of threatened or endangered species shall be 85 percent.

(2) PROJECTS ON PUBLIC LAND.—The Federal share of the cost of the portion of a control project that is carried out on Public land shall be 100 percent.

(3) APPLICATION OF IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of the costs of a control project the fair market value of services or any other form of in-kind contribution to the project made by a non-Federal entity.

(4) DERIVATION OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a control project carried out with a grant under this section may not be derived from a Federal grant program or other Federal funds.

(h) REPORTING BY SECRETARY.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act and every 2 years thereafter, the Secretary shall submit to Congress a report that—

(A) describes the implementation of this section; and

(B) includes a determination whether the grants authorized under subsections (a) and (b) should be expanded to land and water that are owned and administered by Federal agencies other than the Department of the Interior or the Forest Service.

(2) CONTENTS.—A report under paragraph (1) shall include a review of control projects, including—

(A) a list of control projects selected, in progress, and completed;

(B) an assessment of project impacts, including—

(i) areas treated; and

(ii)(I) if feasible, a measurement of invasive species eradicated; or

(II) an estimate of the extent to which invasive species have been reduced or contained;

(C) the success and failure of control techniques used;

(D) an accounting of expenditures by Federal, State, regional, and local government agencies and other entities to carry out the projects;

(E) a review of efforts made to maintain an appropriate database of projects assisted under this section; and

(F) a review of the geographical distribution of Federal funds, matching funds, and in-kind contributions provided for projects.

SEC. 5. RAPID RESPONSE ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide financial assistance to States, local governments, public or private entities, and Indian tribes for a period of 1 fiscal year to enable States, local governments, nongovernmental entities, and Indian tribes to rapidly respond to outbreaks of invasive species that are at a stage at which rapid eradication or control is possible.

(b) REQUIREMENTS FOR ASSISTANCE.—The Secretary shall—

(1) at the request of the Governor of a State—

(A) provide assistance under this section to the State, a local government, public or private entity, or Indian tribe for the eradication of an immediate invasive species threat in the State if—

(i) there is a demonstrated need for the assistance;

(ii) the invasive species is considered to be an immediate threat to native ecosystems, human health, or the economy, as determined by the Secretary; and

(iii) the proposed response of the State, local government, public or private entity, or Indian tribe to the threat—

(I) is technically feasible; and

(II) minimizes adverse impacts to native ecosystems and non-target species; or

(B) if the requirements under subparagraph (A) are not met, submit to the Governor of the State, not later than 30 days after the date on which the Secretary received the request, written notice that the State is not eligible for assistance under this section;

(2) determine the amount of financial assistance to be provided under this section, subject to the availability of appropriations, with respect to an outbreak of an invasive species;

(3) require that entities receiving assistance under this section monitor and report on activities carried out with such assistance in the same manner that control project grant recipients monitor and report on such activities; and

(4) expedite environmental and regulatory reviews to ensure that an outbreak of invasive species can be addressed within the 180-day period beginning on the date on which the State notifies the Secretary of the outbreak.

SEC. 6. RELATIONSHIP TO OTHER AUTHORITIES.

Nothing in this Act affects authorities, responsibilities, obligations, or powers of the Secretary under any other statute.

SEC. 7. BUDGET CROSSCUT.

Not later than March 31, 2005, and each year thereafter, the Director of the Office of Management and Budget, in consultation with the Council, shall submit to Congress—

(1) a comprehensive budget analysis and summary of Federal programs relating to invasive species; and

(2) a list of general priorities, ranked in high, medium, and low categories, of Federal efforts and programs in—

(A) prevention;

(B) early detection and rapid response;

(C) eradication, control, management, and restoration;

(D) research and monitoring;

(E) information management; and

(F) public outreach and partnership efforts.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) ASSESSMENT GRANTS.—There are authorized to be appropriated to the Secretary to carry out assessment projects under section 4(a)—

(1) $25,000,000 for fiscal year 2005; and

(2) such sums as are necessary for each of fiscal years 2006 through 2009.

(b) CONTROL GRANTS.—There are authorized to be appropriated to the Secretary to carry out control projects under section 4(b)—

(1) $175,000,000 for fiscal year 2005; and

(2) such sums as are necessary for each of fiscal years 2006 through 2009.

(c) RAPID RESPONSE ASSISTANCE.—There are authorized to be appropriated to the Secretary to carry out section 5—

(1) $50,000,000 for fiscal year 2005; and

(2) such sums as are necessary for each of fiscal years 2006 through 2009.

(d) CONTINUING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

(e) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of amounts made available each fiscal year to carry out this Act, the Secretary may expend not more than 5 percent to pay the administrative expenses necessary to carry out this Act.

By Mr. CHAMBLISS (for himself and Mr. KYL):

S. 2599. A bill to strengthen anti-terrorism investigative tools, to enhance prevention and prosecution of terrorist crimes, to combat terrorism financing, to improve border and transportation security, and for other purposes; to the Committee on the Judiciary.

Mr. CHAMBLISS. Mr. President, I rise today to introduce a bill that will facilitate the sharing of information from Federal law enforcement agencies to State and local law enforcement. Right now, existing Federal law authorizes the FBI to obtain certain records and information, such as telephone records, bank records, and consumer credit records, in investigations of terrorist activities. One of the tools

that the FBI uses for this purpose is the National Security Letter (or NSL), which is, in effect, a limited type of administrative subpoena that is directed to the institutions that have these records. The statutes authorizing the use of NSLs generally require that the requested information be relevant to an investigation of international terrorism or clandestine intelligence activities, and these statues prohibit investigations based solely on First Amendment-protected activities of people known under the law as ''United States persons,'' which is a group consisting of U.S. citizens and permanent resident aliens.

Unfortunately, when the FBI receives records or information provided to it in response to NSLs, several different statutes govern the circumstances under which the Bureau may disseminate this information to other agencies. The standards differ from statute to statute—complicating the sharing of the information with other agencies that may need it for counterterrorism purposes—and a number of these provisions curiously are more restrictive about information sharing with other Federal agencies than with non-Federal agencies. The Information Sharing Improvement Act of 2004 (ISIA), which I introduce today along with my good friend from Arizona, JOHN KYL, would amend these statutes to allow the dissemination of information obtained through NSLs in conformity with consistent guidelines developed by the Attorney General.

The Information Sharing Improvement Act also amends a statute that authorizes sharing of national security-related investigative information with relevant Federal, State, and local officials, to make it clear that the statute applies regardless of whether the investigation in which the information was obtained is characterized as a ''criminal'' investigation or a ''national security'' investigation.

Finally, the Information Sharing Improvement Act would restore Homeland Security Act amendments that broaden the sharing of Federal grand jury information concerning threatened terrorist attacks with State and local authorities.

The Information Sharing Improvement Act does not expand the powers of the FBI or Federal prosecutors to acquire records or information, but it will improve their ability to share information—obtained under existing authorities—with Federal, State, and local agencies that need it to protect the public from terrorism.

By Mrs. CLINTON (for herself, Mr. LEVIN, Mr. DODD, Ms. CANTWELL, Mr. SARBANES, Mr. SCHUMER, Ms. LANDRIEU, Mr. SANTORUM, Mr. LIEBERMAN, Mrs. BOXER, Mr. SPECTER, Mr. ALEXANDER, Ms. STABENOW, Mrs. FEINSTEIN, Mrs. HUTCHISON, Ms. MIKULSKI, Ms. COLLINS, Mr. CORZINE, and Mr. PRYOR):

S. 2600. A bill to direct the Architect of the Capitol to enter into a contract to revise the statue commemorating women's suffrage located in the rotunda of the United States Capitol to include a likeness of Sojourner Truth; to the Committee on Rules and Administration.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation, with strong bi-partisan support, calling for the women's suffrage statue located in the Capitol Rotunda to include a likeness of Sojourner Truth. As many of my colleagues know, in the majestic Capitol Rotunda sits a monument honoring three pioneers of the women's suffrage movement, which led to the women of our great nation being granted the right to vote in 1920.

The monument features the busts of Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony that were sculpted by Adelaide Johnson, who passed away in 1955. As the Architect of the Capitol has noted, the monument was presented to the Capitol as a gift from the women of the United States by the National Women's Party and was accepted on behalf of Congress by the Joint Committee on the Library on February 10, 1921. The unveiling ceremony was held in the Rotunda on February 15, 1921, the 101st anniversary of the birth of Susan B. Anthony, and was attended by representatives of over 70 women's organizations. The Committee authorized the installation of the monument in the Crypt, where it remained until, by act of Congress in 1996, it was relocated to the Capitol Rotunda in May 1997.

In addition to the wonderful busts of Stanton, Mott, and Anthony, one of the interesting features of the monument is the existence of a large slab of stone that was never sculpted. Looking at the monument, it is clear that it was intended for a fourth person—another pioneer of the women's suffrage movement—to be sculpted. The legislation I am introducing today calls for Sojourner Truth to be that person.

Born into slavery as one of the youngest of thirteen children of James and Elizabeth in Hurley, which is in Ulster County, New York, in approximately 1897, Sojourner Truth's given name was Isabella Baumfree. Almost all of her brothers and sisters had been sold to other slave owners. Some of her earliest memories were of her parents' stories of the cruel loss of their other children.

Isabella was sold several times to various slave owners and suffered many hardships under slavery, but throughout her life she maintained a deep and unwavering faith that carried her through many difficult times.

In 1817, the New York State Legislature passed the New York State Emancipation Act, which granted freedom to those enslaved who were born before July 4, 1799. Unfortunately, however, this law declared that many men, women and children could not be freed until July 4, 1827, ten years later. While still enslaved and at the demand of her then owner, John Dumont, Isabella married an older slave named Thomas, with whom she had at least five children—Diane, Peter, Hannah, Elizabeth, and Sophia.

As the date of her release came near—July 4, 1827—she learned that Dumont was plotting to keep her enslaved, even after the Emancipation Act went into effect. For this reason, in 1826, she ran away from the Dumont plantation with her infant child, leaving behind her husband and other children.

She took refuge with a Quaker family—the family of Isaac Van Wagenen—and performed domestic work for them as well as missionary work among the poor of New York City. While working for the Van Wagenen's, she discovered that a member of the Dumont family had sold her youngest son Peter to a plantation owner in Alabama. At the time, New York law prohibited the sale of slaves outside New York State and so the sale of Peter was illegal. Isabella sued in court and won his return. In doing so, she became the first black woman in the United States to take a white man to court and win.

Isabella had always been very spiritual, and soon after being emancipated, she had a vision that affected her profoundly, leading her—as she later described it—to develop a ''perfect trust in God and prayer.'' In 1843, deciding her mission was to preach the word of God, Isabella changed her name to Sojourner Truth—her name for a traveling preacher, one who speaks the truth—and left New York. That summer she traveled throughout New England, calling her own prayer meetings and attending those of others. She preached ''God's truth and plan for salvation.''

After months of travel, she arrived in Northampton, Massachusetts, and joined the Northampton Association for Education and Industry, where she met and worked with abolitionists such as William Lloyd Garrison, Frederick Douglas, and Olive Gilbert.

As we know, during the 1850s, slavery became an especially heated issue in the United States. In 1850, Congress passed the Fugitive Slave Law, which allowed runaway slaves to be arrested and jailed without a jury trial, and in 1857, the Supreme Court ruled in the Dred Scott case that those enslaved had no rights as citizens and that the government could not outlaw slavery in the new territories.

Nevertheless, these extraordinarily difficult times did not stop Sojourner Truth from continuing her mission. Her life story—''The Narrative of Sojourner Truth: A Northern Slave''—written with the help of friend Olive Gilbert, was published in 1850.

While traveling and speaking in states across the country, Sojourner Truth met many women abolitionists and noticed that although women could be part of the leadership in the abolitionist movement, they could neither vote nor hold public office. It was

this realization that led Sojourner to become an outspoken supporter of women's rights.

In 1851, she addressed the Women's Rights Convention in Akron, Ohio, delivering her famous speech ''Ain't I a Woman?'' The applause she received that day has been described as ''deafening.'' From that time on, she became known as a leading advocate for the rights of women. Indeed, she was one of the nineteenth century's most eloquent voices for the cause of anti-slavery and women's rights.

By the mid-1850s, Truth had earned enough money from sales of her popular autobiography to buy land and a house in Battle Creek, Michigan. She continued her lectures, traveling to Ohio, Indiana, Iowa, Illinois, and Wisconsin. When the Civil War erupted in 1861, she visited black troops stationed near Detroit, Michigan, and offered encouragement. After the Emancipation Proclamation of 1863, she worked in Washington as a counselor and educator for those who had been previously enslaved through the Freedman's Relief Association and the Freedmen's Hospital. It was during this time—in October 1864—that she met with President Abraham Lincoln.

Throughout the 1870s, Sojourner Truth continued to speak on behalf of women and African Americans. Failing health, however, soon forced Sojourner to return to her Battle Creek, Michigan home, where she died on November 26, 1883.

This brief recounting of Sojourner Truth's life story only begins to speak of her faith, courage, intelligence, and steadfastness in the face of extraordinary circumstances and volatile times in our Nation's history. Though she could neither read nor write, her eloquence commanded the attention of thousands of Americans, both black and white. It therefore comes as no surprise to learn that among her many friends, admirers and staunch supporters were Frederick Douglass, Amy Post, Olive Gilbert, Parker Pillsbury, Mrs. Francis Gage, Weldell Phillips, Willilam Lloyd Garrison, Laura Haviland, Lucretia Mott, and Susan B. Anthony.

The legislation I am introducing today pays tribute to Sojourner Truth by including her in the portrait monument with three of her fellow leading suffragettes. That is why this legislation has the strong bi-partisan support of so many of my colleagues and of many organizations, including the National Council of Women's Organizations.

I also want to take a moment to say a special thanks of appreciation to Dr. C. Delores Tucker, Chair of the National Congress of Black Women, who is the champion of this legislation and for all African American women, children and families today. I know that with her continued, unwavering support, this legislation will be enacted. I ask all of my colleagues to support it. Thank you.

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. 2600

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States, and any monument that accurately represents this important development in our Nation's history should include her.

(2) The statue known as the Portrait Monument, originally presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote and presently exhibited in the rotunda of the Capitol, portrays several early suffragists who were Sojourner Truth's contemporaries, but not Sojourner Truth herself, the only African American among the group.

SEC. 2. REVISION OF WOMEN'S SUFFRAGE STATUE.

Not later than the final day on which the One Hundred Ninth Congress is in session, the Architect of the Capitol shall enter into a contract to revise the statue commemorating women's suffrage located in the rotunda of the United States Capitol (commonly known as the ''Portrait Monument'') to include a likeness of Sojourner Truth.

Mr. SPECTER. Mr. President, I have sought recognition to co-sponsor legislation to add the likeness of Sojourner Truth to the statue commemorating women's suffrage located in the rotunda of the United States Capitol.

Sojourner Truth (1797?–1883) was the self-given name of a woman born into slavery. The year of her birth is uncertain, and is usually taken to be 1797. Originally Isabella Van Wagener, she escaped to Canada in 1827.

After New York State had abolished slavery in 1829, she returned and worked as a domestic servant for over a decade, and joined Elijah Pierson in evangelical preaching on street-corners. Later in life she became a noted speaker for both the Abolitionist movement and the women's rights movement. Perhaps one of her most famous speeches was Ain't I A Woman, a short but pointed commentary delivered in 1851 at the Women's Convention in Akron, Ohio.

During the American Civil War, she organized collection of supplies for the Union. In 1850, she worked with Olive Gilbert to produce a biography, the Narrative of Sojourner Truth.

This was a truly amazing woman who endeavored in her time to change the American experience both for her fellow freed slaves as well as women of all races. A courageous woman, Truth not only spoke out against the racial oppression that she had endured throughout her childhood but acted on her beliefs, inspiring men and women of all races with her personal strength, wisdom, and social activism.

Through her courage and perseverance, Sojourner Truth, her contemporaries, and future visionaries have led our nation and the world toward greater freedom and democracy for all. Three of these women—Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony—are already portrayed by the Portrait Monument, which was presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote. Her recognition, as an African-American would be an appropriate, noteworthy addition to the statue.

I am pleased to offer this legislation to finally honor Sojourner Truth in the rotunda of the U.S. Capitol and encourage the retelling of her inspirational story to the American people. This is a long overdue effort and I encourage my colleagues to support this legislation.

By Mr. LAUTENBERG:

2601. A bill to amend title 37, United States Code, to require the payment of monthly special pay for members of the uniformed services whose service on active duty is extended by a stop-loss order or similar mechanism, and for other purposes; to the Committee on Armed Services.

Mr. LAUTENBERG. Mr. President, I rise today to offer a bill that addresses a critical element of defense funding.

My bill will very simply compensate men and women from all services who will be deployed even after their service agreement has ended.

The so called ''Stop Loss'' policy that will keep over 10,000 troops forcefully conscripted is a direct result of perhaps the most dangerous error the administration made in its planning for the war in Iraq.

The administration gravely miscalculated the military personnel required in the post-invasion stage of the Iraq campaign. It drastically underestimated the challenges of the so called ''Reconstruction Phase'' and instead naively pretended we would be greeted as liberators, with sweets and tea.

The civilian leadership at the Pentagon failed to plan for adequate personnel to ensure the security of Iraq.

But this wasn't just failure by omission. This was a deliberate neglect of expert opinion, which warned the administration that hundreds of troops would be needed to secure a country the size of California. In January 2003, three star General Eric Shinseki told the White House, the Pentagon and the public that 300,000 troops were necessary to execute the war and post-war objectives.

Not only was his expert advice ignored, but he was also fired for offering a dissenting view.

In May 2003, the administration was given a second chance to bolster its troops in Iraq; it could have solicited the support of our major allies—such as Turkey, France, India and others—and NATO and urge a truly international coalition to maintain peace in Iraq.

Unfortunately, the opportunity to bolster our troops through a real multinational coalition was squandered and now it is too late.

In fact, our troop shortage is so dire in Iraq that we are paying non-military private contractors to perform typically military functions in Iraq—everything from serving meals to securing command centers.

We now have over 20,000 private security contractors in Iraq, which is approximately the same number of individuals as the international troops from the United Kingdom, Poland, Thailand, Italy and elsewhere who are in our coalition.

And now, the military is forced to rely on the policy of forcing individuals at the end of their service term to remain with their unit if it is deployed or will be deployed to the combat theaters.

The Pentagon has cleverly borrowed the corporate term ''Stop Loss'' to describe this new policy, which will affect over 10,000 new active duty and national guard and reservists.

I call the policy: ''Going Back on Your Word.'' With the Stop Loss orders, thousands of men and women are being forcibly maintained in the services, just as they were packing their bags and preparing to return home to civilian life.

Stop Loss has an extremely large impact on all troops, but especially impacts the National Guard and Reservists, many of whom have already been deployed much longer than they expected.

These men and women have put jobs and families on hold and now the Pentagon is delaying their return further.

My bill addresses the serious strain that is currently being placed on our young men and women in uniform and their families back home. It requires the Pentagon to reimburse service members $2,000 a month for each month that they are forcibly maintained in the Armed Services, after their term of enlistment has extended.

Critics might claim that this bonus will unfairly reward some troops and not others. But the Army and other services already have instituted many different types of bonus awards that compensate service members above and beyond the base military pay. For example, we routinely give hazardous danger pay and separation pay and recently we've initiated new bonuses for those who enlist as a recruiting tool.

It's only fair that we compensate the troops who have already been fighting on the front lines of our two combat theaters.

These American heroes being sent back to war deserve a $2,000 a month bonus each and every month they are serving.

While the richest among us have been rewarded with tax cuts, the soldiers, sailors, marines, and air men and women and their families are living paycheck to paycheck. This is just one example of how this war is requiring sacrifices from only a small, overburdened segment of American society.

It is not fair and my Military Fairness Act of 2004 will begin to redress the inequity in sacrifice:

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. 2601

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

SECTION 1. MONTHLY SPECIAL PAY FOR ACTIVE DUTY SERVICE EXTENDED BY STOP-LOSS ORDERS.

(a) IN GENERAL.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 327. Special pay: active duty service extended by stop-loss order

''(a) SPECIAL PAY.—A member of the uniformed services entitled to basic pay whose enlistment or period of obligated service is extended, or whose eligibility for retirement is suspended, pursuant to the exercise of an authority referred to in subsection (b) is entitled while on active duty during the period of such extension or suspension to special pay in the amount specified in subsection (c).

''(b) EXTENSION AUTHORITIES.—An authority referred to in this section is an authority for the extension of an enlistment or period of obligated service, or for suspension of eligibility for retirement, of a member of the uniformed services under a provision of law as follows:

''(1) Section 123 of title 10.

''(2) Section 12305 of title 10.

''(3) Any other provision of law (commonly referred to as 'stop-loss authority') authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

''(c) MONTHLY AMOUNT.—The amount of special pay specified in this subsection is $2,000 per month.

''(d) CONSTRUCTION WITH OTHER PAYS.—Special pay payable under this section is in addition to any other pay payable to members of the uniformed services by law.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''327. Special pay: active duty service extended by stop-loss order.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of March 20, 2003.

(c) FUNDING.—Amounts appropriated or otherwise made available for the Department of Defense for operation and maintenance for fiscal year 2005 shall be available for the payment of special pay under section 327 of title 37, United States Code (as added by subsection (a))—

(1) during fiscal year 2005; and

(2) for the period beginning on the effective date specified in subsection (b) and ending on September 30, 2004.

By Mr. DODD (for himself and Mr. BENNETT):

S. 2602. A bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today to introduce the District of Columbia and United States Territories Circulating Quarter Dollar Program Act. I am proud to cosponsor this important legislation with my colleague, Sen. ROBERT BENNETT, R–UT.

This legislation will provide the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands the opportunity to put a design of their choice on the reverse side of a quarter coin. These jurisdictions were inadvertently excluded from the 50 States Quarter Commemorative Coin Program Act, Public Law 105–124, that gave each State the same right in 1997.

As part of the 50 State Quarter Program, over twenty-two billion quarter coins representing 27 states have been minted. All the coins are minted according to the year each State ratified the Constitution of the United States or were admitted into the Union. Although States have appropriate latitude, there are limitations as to what can be used as a design.

According to Public Law 105–124, the Secretary of the Treasury has the final approval of each design. The law gives clear guidance as to what is an acceptable design concept. Suitable design concepts include State landmarks, landscapes, historically significant buildings, symbols of State resources or industries, official State flora and fauna, State icons, and outlines of States. Among the examples of suitable coins already in circulation year New York's Statue of Liberty, Missouri's depiction of Lewis and Clark as they paddled down the Missouri River with the Gateway Arch in the background, and North Carolina's first successful airplane flight.

The District of Columbia has been the unfortunate target of acts of terror, yet citizens of the District have no one who can cast a vote in Congress on policies to protect their security. Citizens of Washington, D.C., pay income taxes just like every other American. In fact on a per capita basis, District residents have the second highest Federal tax obligation. And yet they have absolutely no say in how high those taxes will be or how their tax dollars will be spent.

This legislation is a reminder of the importance of including all Americans in the symbols of American citizenship. The residents of the District are American citizens, despite their lack of voting representation in the Congress.

I believe that the least that we can do is allow the residents of the District of Columbia, as citizens of the United States, to commemorate the symbols of their own jurisdiction.

The 50 States Commemorative Coin Program Act of 1997 states that ''Congress finds that it is appropriate and timely to honor the unique Federal Republic of 50 States that comprise the United States; and to promote the diffusion of knowledge among the youth

of the United States about the individual states, their history and geography, and the rich diversity of the national heritage'' and to encourage ''young people and their families to collect memorable tokens of all of the States for the face value of the coins.''

I believe that it is of significant importance to America's youth to better understand and honor the rich, vibrant history of our nation's capital and territories, as well as that of our states. I urge my colleagues to support this meaningful legislation.

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

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

S. 2602

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 ''District of Columbia and United States Territories Circulating Quarter Dollar Program Act''.

SEC. 2. ISSUANCE OF REDESIGNED QUARTER DOLLARS HONORING THE DISTRICT OF COLUMBIA AND EACH OF THE TERRITORIES.

Section 5112 of title 31, United States Code, is amended by inserting after subsection (m) the following new subsection:

''(n) REDESIGN AND ISSUANCE OF CIRCULATING QUARTER DOLLAR HONORING THE DISTRICT OF COLUMBIA AND EACH OF THE TERRITORIES.—

''(1) REDESIGN IN 2009.—

''(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2) and subject to paragraph (6)(B), quarter dollar coins issued during 2009 shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the District of Columbia and the territories.

''(B) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars issued during 2009 in which—

''(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

''(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

''(2) SINGLE DISTRICT OR TERRITORY DESIGN.—The design on the reverse side of each quarter dollar issued during 2009 shall be emblematic of one of the following: The District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(3) SELECTION OF DESIGN.—

''(A) IN GENERAL.—Each of the 6 designs required under this subsection for quarter dollars shall be—

''(i) selected by the Secretary after consultation with—

''(I) the chief executive of the District of Columbia or the territory being honored, or such other officials or group as the chief executive officer of the District of Columbia or the territory may designate for such purpose; and

''(II) the Commission of Fine Arts; and

''(ii) reviewed by the Citizens Coinage Advisory Committee.

''(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

''(C) PARTICIPATION.—The Secretary may include participation by District of Columbia or territorial officials, artists from the District of Columbia or the territory, engravers of the United States Mint, and members of the general public.

''(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

''(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

''(4) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

''(5) ISSUANCE.—

''(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

''(C) TIMING AND ORDER OF ISSUANCE.—Coins minted under this subsection honoring the District of Columbia and each of the territories shall be issued in equal sequential intervals during 2009 in the following order: the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(6) OTHER PROVISIONS.—

''(A) APPLICATION IN EVENT OF ADMISSION AS A STATE.—If the District of Columbia or any territory becomes a State before the end of the 10-year period referred to in subsection (l)(1), subsection (l)(7) shall apply, and this subsection shall not apply, with respect to such State.

''(B) APPLICATION IN EVENT OF INDEPENDENCE.—If any territory becomes independent or otherwise ceases to be a territory or possession of the United States before quarter dollars bearing designs which are emblematic of such territory are minted pursuant to this subsection, this subsection shall cease to apply with respect to such territory.

''(7) TERRITORY DEFINED.—For purposes of this subsection, the term 'territory' means the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.''.

By Mr. SMITH (for himself, Mr. ALLEN, Mr. HOLLINGS, and Mr. SUNUNU):

S. 2603. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senators ALLEN, HOLLINGS and SUNUNU to introduce the ''Junk Fax Prevention Act of 2004.'' This bill will strengthen existing laws by providing consumers the ability to prevent unsolicited fax advertisements and provide greater Congressional oversight of enforcement efforts by the Federal Communications Commission (FCC). This bill will also help businesses by allowing them to continue to send faxes to their customers in a manner that has proven successful with both businesses and consumers.

At the end of last summer, the FCC reconsidered its Telephone Consumer Protection Act (TCPA) rules and elected to eliminate the ability for businesses to contact their customers even where there exists an established business relationship. The effect of the FCC's rule would be to prevent a business from sending a fax solicitation to any person, whether it is a supplier or customer, without first obtaining prior written consent. This approach, while seemingly sensible, would impose significant costs on businesses in the form of extensive record keeping. Almost immediately after issuing this rule, the Commission stayed its implementation until January 1, 2005.

The purpose of this legislation is to preserve the established business relationship exception currently recognized under the TCPA. In addition, this bill will allow consumers to opt out of receiving further unsolicited faxes. This is a new consumer protection that does not exist under the TCPA today.

We believe that this bipartisan bill strikes the appropriate balance in providing significant protections to consumers from unwanted unsolicited fax advertisements and preserves the many benefits that result from legitimate fax communications. We hope that this body can pass this legislation in a timely manner, prior to January 1, 2005, when the FCC's stay expires.

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. 2603

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 ''Junk Fax Prevention Act of 2004''.

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

''(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

''(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient; and

''(ii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D), except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile

machine that complies with the requirements under paragraph (2)(E); or''.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

''(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

''(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G))''.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

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

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

''(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

''(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

''(iii) the notice sets forth the requirements for a request under subparagraph (E);

''(iv) the notice includes—

''(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

''(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

''(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

''(vi) the notice complies with the requirements of subsection (d);''.

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following:

''(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

''(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

''(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

''(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;''.

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d), is further amended by adding at the end the following:

''(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(ii), except that the Commission may take action under this subparagraph only—

''(i) by regulation issued after public notice and opportunity for public comment; and

''(ii) if the Commission determines that such notice required by paragraph (1)(C)(ii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and''.

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following:

''(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship to a period not shorter than 5 years and not longer than 7 years after the last occurrence of an action sufficient to establish such a relationship, but only if—

''(I) the Commission determines that the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

''(II) upon review of such complaints referred to in subclause (I), the Commission has reason to believe that a significant number of such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

''(III) the Commission determines that the costs to senders of demonstrating the existence of an established business relationship within a specified period of time do not outweigh the benefits to recipients of establishing a limitation on such established business relationship; and

''(IV) the Commission determines that, with respect to small businesses, the costs are not unduly burdensome, given the revenues generated by small businesses, and taking into account the number of specific complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines by small businesses; and

''(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-year period that begins on the date of the enactment of the Junk Fax Prevention Act of 2004.''.

(g) UNSOLICITED ADVERTISEMENT.—Section 227(a)(5) of the Communications Act of 1934, as so redesignated by subsection (b)(1), is amended by inserting '', in writing or otherwise'' before the period at the end.

(h) REGULATIONS.—Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 (as added by subsection (f)), not later than 270 days after the date of enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U. S.C. 227) is amended by adding at the end the following:

''(g) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

''(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules;

''(2) the number of such complaints received during the year on which the Commission has taken action;

''(3) the number of such complaints that remain pending at the end of the year;

''(4) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(5) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(6) for each notice referred to in paragraph (5)—

''(A) the amount of the proposed forfeiture penalty involved;

''(B) the person to whom the notice was issued;

''(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

''(D) the status of the proceeding;

''(7) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(8) for each forfeiture order referred to in paragraph (7)—

''(A) the amount of the penalty imposed by the order;

''(B) the person to whom the order was issued;

''(C) whether the forfeiture penalty has been paid; and

''(D) the amount paid;

''(9) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

''(10) for each case in which the Commission referred such an order for recovery—

''(A) the number of days from the date the Commission issued such order to the date of such referral;

''(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

''(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.''.

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which study shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under subsection (a)(4), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established under section 1037 of title 18, United States Code, would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

By Mr. SMITH (for himself and Mr. BREAUX):

S. 2604. A bill to amend the Internal Revenue Code of 1986 to reduce the recognition period for built-ins gains for subchapter S corporations; to the Committee on Finance.

Mr. SMITH. Mr. President, I am very pleased today to introduce the Small Business Growth and Opportunity Act of 2004 along with my Finance Committee colleague, Senator BREAUX.

This legislation will allow S corporations to liquidate unproductive assets freeing up capital to be used to grow the business and create new jobs.

There are about 2.9 million of these small and family-owned businesses in all 50 States. Over the past few years, many of these small businesses have been forced to lay off workers and delay capital investment. At the same time, the tax code forces them to hold on to unproductive and inefficient assets or face the double tax period of the corporate ''built-in gains'' tax.

Under current law, businesses that convert from C corporation to S corporation status are penalized by a double tax burden for a period of 10 years if they sell assets they owned as a C corporation. This tax penalty is imposed at the corporate level on top of normal shareholder-level taxes, making the sale and reinvestment of these assets prohibitively expensive. In some States, this double-tax burden can exceed 70 percent of the built-in gain.

Clearly this tax penalty is neither justifiable nor sustainable as a reasonable business matter. The built-in gains tax 1. limits cash flow and availability, 2. encourages excess borrowing because the S corporation cannot access the locked-in value of its own assets, and 3. prevents these small businesses from growing and creating jobs.

While I would like to see even more generous relaxation of these rules, for revenue considerations this bill will reduce the built-in gains recognition period, the holding period, from 10 years to 7 years. This three-year reduction would be a significant start in easing this unproductive tax burden on these small and family-owned businesses.

I look forward to working with my colleagues on the Senate Finance Committee and hope the Committee will consider this proposal this year.

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

S. 2604

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

SECTION 1. REDUCED RECOGNITION PERIOD FOR BUILT-IN GAINS.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—The term 'recognition period' means the 7-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation. For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), the preceding sentence shall be applied without regard to the duration of the recognition period in effect on the date such distribution.''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply to any recognition period in effect on or after the date of the enactment of this Act.

(2) SPECIAL APPLICATION TO EXISTING PERIODS EXCEEDING 7 YEARS.— Any recognition period in effect on the date of the enactment of this Act, the length of which is greater than 7 years, shall end on such date.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 391—DESIGNATING THE SECOND WEEK OF DECEMBER 2004 AS ''CONVERSATIONS BEFORE THE CRISIS WEEK''

Mr. NELSON of Florida submitted the following resolution; which was referred to the Committee of the Judiciary:

S. RES. 391

Whereas 2,400,000 people in the United States die each year;

Whereas research shows that a majority of people in the United States would prefer to die at home, surrounded by family and other loved ones, free from pain, and with their wishes honored;

Whereas only 30 percent of people in the United States living with life-limiting illness experience the interdisciplinary care that hospice provides to patients and their caregivers;

Whereas studies have shown that too many people do not get the care they want, with 70 percent dying in hospitals and nursing homes suffering needlessly from high levels of pain due to poor pain and symptom management;

Whereas individuals need to have more information and support in order to make informed choices and share these end-of-life care wishes with their families, doctors, lawyers, and clergy;

Whereas all people in the United States have the ability to make their end-of-life care wishes clear through the execution of an advance directive, which includes a living will describing the kind of care they would like to receive and the appointment of a health care agent or proxy to speak for them if they cannot speak for themselves;

Whereas only 15 to 20 percent of people in the United States currently have an advance directive and most do not know that there are options for good pain and symptom management and quality end-of-life care, and thus do not ask for them;

Whereas honoring a dying person's preferences is a critical element of quality end-of-life care and the right of all people in the United States;

Whereas advance directive documents are valid in all 50 states and are available without charge on the Internet;

Whereas a ''Conversations Before the Crisis Week'', and activities planned to support this week, would encourage family members to designate time during the week to talk to their loved ones about their personal end-of-life wishes and to document those wishes formally through the completion of a living will and appointing a medical power of attorney; and

Whereas the Senate believes educating people in the United States about end-of-life care choices and encouraging conversations about these issues before there is a medical crisis is of the utmost importance: Now, therefore, be it

Resolved, That the Senate—

(1) designates the second week of December 2004 as 'Conversations Before the Crisis Week'; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. NELSON of Florida. Mr. President, last week my colleague Senator JAY ROCKEFELLER and I had the privilege of introducing the Advanced Directives Improvement and Education