

S. 259. A bill to authorize funding the Department of Energy to enhance its mission areas through Technology Transfer and Partnerships for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself and Mr. DODD):

S. 260. A bill to authorize the President to provide international disaster assistance for the construction or reconstruction of permanent single family housing for those who are homeless as a result of the effects of the earthquake in El Salvador on January 13, 2001; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 261. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

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

S. 262. A bill to provide for teaching excellence in America's classrooms and homes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mr. TORRICELLI):

S. 263. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself and Mr. TORRICELLI):

S. 264. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis; to the Committee on Governmental Affairs.

By Mr. FITZGERALD (for himself, Mr. BAYH, Mr. BROWNBACK, Mr. KOHL, and Mr. DURBIN):

S. 265. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 266. A bill regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. REID, Mr. LEVIN, Mr. SCHUMER, Mr. GRAHAM, Mr. GREGG, Mr. TORRICELLI, Mrs. BOXER, and Mr. SMITH of New Hampshire):

S. 267. A bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. LINCOLN (for herself, Mr. LUGAR, Mr. BREAUX, Mr. KYL, Ms. LANDRIEU, Mr. COCHRAN, and Mr. BAYH):

S. 268. A bill to amend the Internal Revenue Code of 1986 to allow nonrefundable personal credits, the standard deduction, and personal exemptions in computing alternative minimum tax liability, to increase the amount of the individual exemption from such tax, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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

S. Res. 17. A resolution congratulating President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 53 years of independence; to the Committee on Foreign Relations.

By Ms. LANDRIEU (for herself and Mr. DODD):

S. Res. 18. A resolution expressing sympathy for the victims of the devastating earthquake that struck El Salvador on January 13, 2001; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. L. CHAFEE, Mr. GRAHAM, Mr. BINGAMAN, and Mr. JOHNSON):

S. 247. A bill to provide for the protection of children from tobacco; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, just under 3 years ago, on March 31, 1998, Senators HARKIN, John Chafee and GRAHAM teamed up to introduce the first comprehensive bipartisan legislation to reduce teen smoking. Today, I am pleased to announce that Senators HARKIN, LINCOLN CHAFEE and GRAHAM are teaming up again with the same goal. We are re-introducing the first bipartisan Senate bill to restore the Food and Drug Administration's authority to protect our kids from tobacco.

We hope the introduction of this bill is the beginning of a bipartisan push to get this type of common sense legislation passed. The need is clear. As Supreme Court Justice Sandra Day O'Connor recognized, tobacco use among children and adolescents is probably the single most significant threat to public health in the United States. Study after study has shown how the tobacco industry continues to successfully target our children. In a survey done by the Campaign for Tobacco Free Kids, seventy-three percent of teens reported seeing tobacco advertising in the previous two weeks, compared to only 33 percent of adults. And 77 percent of teens say it is easy for kids to buy cigarettes.

This is why every day another 3000 kids in this country become regular smokers. And that is why cigarette smoking among high school seniors is at a 19-year high.

There is no question. Nicotine is an addictive product and cigarettes kill. Even the tobacco companies are starting to admit it. In fact, Big Tobacco has known this for so long, they deliberately manipulate the nicotine in cigarettes to get more people addicted.

The FDA regulations, struck down by the Supreme Court last year, were about stopping kids from smoking.

These regulations were an investment in the future of our kids. They also provided consumers with critical protections against false advertising and health claims by tobacco manufacturers.

Tobacco companies are making harm reduction claims about new products with no real independent examination or oversight. This deceptive, self-interested behavior is not part of a new pattern. The history of tobacco companies is rife with examples of deceptive practices designed to addict both adults and children with their harmful products. Our bill will ensure that this type of behavior is stopped.

Our legislation re-affirms the FDA's authority over tobacco products. It classifies nicotine as a drug and tobacco products as drug delivery devices. It allows FDA to implement a "public health" standard in its review and regulation of tobacco products. Companies will be prevented from making claims of reduced risk unless they can show scientific evidence their product is actually safer.

By codifying FDA's regulation of 1996, our legislation also allows for continuation of the critically important youth ID checks. It provides needed youth access restrictions such as requiring tobacco products to be kept behind store counters and ban vending machines. It also includes sensible advertising limits to reduce teen access to tobacco.

I urge my colleagues to join us in supporting this legislation. I hope we can work with Senators on both sides of the aisle to move this important issue forward.

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

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

S. 247

*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 "Kids Deserve Freedom from Tobacco Act of 2001" or the "KIDS Act".

### TITLE I—PROTECTION OF CHILDREN FROM TOBACCO

#### Subtitle A—Food and Drug Administration Jurisdiction and General Authority

##### SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

##### SEC. 102. STATEMENT OF GENERAL AUTHORITY.

The regulations promulgated by the Secretary of Health and Human Services in the rule dated August 28, 1996 (Vol. 61, No. 168 C.F.R.), adding part 897 to title 21, Code of Federal Regulations, shall be deemed to have been lawfully promulgated under the Food, Drug, and Cosmetic Act as amended by this title. Such regulations shall apply to all tobacco products.

**SEC. 103. NONAPPLICABILITY TO OTHER DRUGS OR DEVICES.**

Nothing in this title, or an amendment made by this title, shall be construed to affect the regulation of drugs and devices that are not tobacco products by the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act.

**SEC. 104. CONFORMING AMENDMENTS TO CONFIRM JURISDICTION.****(a) DEFINITIONS.—**

(1) **DRUG.**—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by striking “; and (D)” and inserting “; (D) nicotine in tobacco products; and (E)”.

(2) **DEVICES.**—Section 201(h) (21 U.S.C. 321(h)) is amended by adding at the end the following: “Such term includes a tobacco product.”.

(3) **OTHER DEFINITIONS.**—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

“(kk) The term ‘tobacco product’ means any product made or derived from tobacco that is intended for human consumption.”.

(b) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(aa) The manufacture, labeling, distribution, advertising and sale of any adulterated or misbranded tobacco product in violation of—

“(1) regulations issued under this Act; or  
“(2) the KIDS Act, or regulations issued under such Act.”.

**(c) ADULTERATED DRUGS AND DEVICES.—**

(1) **IN GENERAL.**—Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351) is amended by adding at the end the following:

“(j) If it is a tobacco product and it does not comply with the provisions of subchapter D of this chapter or the KIDS Act.”.

(2) **MISBRANDING.**—Section 502(q) (21 U.S.C. 352(q)) is amended—

(A) by striking “or (2)” and inserting “(2)”;

and  
(B) by inserting before the period the following: “, or (3) in the case of a tobacco product, it is sold, distributed, advertised, labeled, or used in violation of this Act or the KIDS Act, or regulations prescribed under such Acts”.

(d) **RESTRICTED DEVICE.**—Section 520(e) (21 U.S.C. 360j(e)) is amended—

(1) in paragraph (1), by striking “or use—” and inserting “or use, including restrictions on the access to, and the advertising and promotion of, tobacco products—”; and

(2) by adding at the end the following:

“(3) Tobacco products are a restricted device under this paragraph.”.

(e) **REGULATORY AUTHORITY.**—Section 503(g) (21 U.S.C. 353(g)) is amended by adding at the end the following:

“(5) The Secretary may regulate any tobacco product as a drug, device, or both, and may designate the office of the Administration that shall be responsible for regulating such products.”.

**SEC. 105. GENERAL RULE.**

Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended by adding at the end the following: “The sale of tobacco products to adults that comply with performance standards established for these products under section 514 and other provisions of this Act and any regulations prescribed under this Act shall not be prohibited by the Secretary, notwithstanding sections 502(j), 516, and 518.”.

**SEC. 106. SAFETY AND EFFICACY STANDARD AND RECALL AUTHORITY.**

(a) **SAFETY AND EFFICACY STANDARD.**—Section 513(a) (21 U.S.C. 360c(a)) is amended—

(1) in paragraph (1)(B), by inserting after the first sentence the following: “For a de-

vice which is a tobacco product, the assurance in the previous sentence need not be found if the Secretary finds that special controls achieve the best public health result.”; and

(2) in paragraph (2)—

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

(B) by striking “(2) For” and inserting “(2)(A) For”; and

(C) by adding at the end the following:

“(B) For purposes of paragraph (1)(B), subsections (c)(2)(C), (d)(2)(B), (e)(2)(A), (f)(3)(B)(i), and (f)(3)(C)(i), and sections 514, 519(a), 520(e), and 520(f), the safety and effectiveness of a device that is a tobacco product need not be found if the Secretary finds that the action to be taken under any such provision would achieve the best public health result. The finding as to whether the best public health result has been achieved shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(i) the increased or decreased likelihood that existing consumers of tobacco products will stop using such products; and

“(ii) the increased or decreased likelihood that those who do not use tobacco products will start using such products.”.

(b) **RECALL AUTHORITY.**—Section 518(e)(1) (21 U.S.C. 360h(e)(1)) is amended by inserting after “adverse health consequences or death,” the following: “and for tobacco products that the best public health result would be achieved.”.

**Subtitle B—Regulation of Tobacco Products****SEC. 111. PERFORMANCE STANDARDS.**

Section 514(a) (21 U.S.C. 60d(a)) is amended—

(1) in paragraph (2), by striking “device” and inserting “nontobacco product device”; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

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

“(3) The Secretary may adopt a performance standard under section 514(a)(2) for a tobacco product regardless of whether the product has been classified under section 513. Such standard may—

“(A) include provisions to achieve the best public health result;

“(B) where necessary to achieve the best public health result, include—

“(i) provisions respecting the construction, components, constituents, ingredients, and properties of the tobacco product device, including the reduction or elimination (or both) of nicotine and the other components, ingredients, and constituents of the tobacco product, its components and its by-products, based upon the best available technology;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product device or, if it is determined that no other more practicable means are available to the Secretary to assure the conformity of the tobacco product device to such standard, provisions for the testing (on a sample basis or, if necessary, on an individual basis) by the Secretary or by another person at the direction of the Secretary;

“(iii) provisions for the measurement of the performance characteristics of the tobacco product device;

“(iv) provisions requiring that the results of each test or of certain tests of the tobacco product device required to be made under clause (ii) demonstrate that the tobacco product device is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision that the sale and distribution of the tobacco product device be re-

stricted but only to the extent that the sale and distribution of a tobacco product device may otherwise be restricted under this Act; and

“(C) where appropriate, require the use and prescribe the form and content of labeling for the use of the tobacco product device.

“(4) Not later than 1 year after the date of enactment of the KIDS Act, the Secretary (acting through the Commissioner of Food and Drugs) shall establish a Scientific Advisory Committee to evaluate whether a level or range of levels exists at which nicotine yields do not produce drug-dependence. The Advisory Committee shall also review any other safety, dependence or health issue assigned to it by the Secretary. The Secretary need not promulgate regulations to establish the Committee.”.

**SEC. 112. APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT TO TOBACCO PRODUCTS.**

(a) **TOBACCO PRODUCTS REGULATION.**—Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

“SUBCHAPTER F—TOBACCO PRODUCT DEVELOPMENT, MANUFACTURING, AND ACCESS RESTRICTIONS

**“SEC. 570. PROMULGATION OF REGULATIONS.**

“Any regulations necessary to implement this subchapter shall be promulgated not later than 12 months after the date of enactment of this subchapter using notice and comment rulemaking (in accordance with chapter 5 of title 5, United States Code). Such regulations may be revised thereafter as determined necessary by the Secretary.

**“SEC. 571. MAIL-ORDER SALES.**

“(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this subchapter, the Secretary shall review and determine whether persons under the age of 18 years are obtaining tobacco products by means of the mail.

“(b) **RESTRICTIONS.**—Based solely upon the review conducted under subsection (a), the Secretary may take regulatory and administrative action to restrict or eliminate mail order sales of tobacco products.

**“SEC. 572. IMPLEMENTATION OF THE PROPOSED RESOLUTION.**

“(a) **ADDITIONAL RESTRICTIONS ON MARKETING, ADVERTISING, AND ACCESS.**—Not later than 18 months after the date of the enactment of this subchapter, the Secretary shall revise the regulations related to tobacco products promulgated by the Secretary on August 28, 1996 (61 Fed. Reg. 44396) to include the additional restrictions on marketing, advertising, and access described in Title IA and Title IC of the Proposed Resolution entered into by the tobacco manufacturers and the State attorneys general on June 20, 1997, except that the Secretary shall not include an additional restriction on marketing or advertising in such regulations if its inclusion would violate the First Amendment to the Constitution.

“(b) **WARNINGS.**—Not later than 18 months after the date of the enactment of this subchapter, the Secretary shall promulgate regulations to require warnings on cigarette and smokeless tobacco labeling and advertisements. The content, format, and rotation of warnings shall conform to the specifications described in Title IB of the Proposed Resolution entered into by the tobacco manufacturers and the State attorneys general on June 20, 1997.

**“(c) RULES OF CONSTRUCTION.—**

“(1) **IN GENERAL.**—Nothing in this section shall be construed to limit the ability of the Secretary to change the text or layout of any of the warning statements, or any of the labeling provisions, under the regulations promulgated under subsection (b) and other provisions of this Act, if determined necessary by the Secretary in order to make

such statements or labels larger, more prominent, more conspicuous, or more effective.

“(2) UNFAIR ACTS.—Nothing in this section (other than the requirements of subsections (a) and (b)) shall be construed to limit or restrict the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of tobacco products.

“(d) LIMITED PREEMPTION.—

“(1) STATE AND LOCAL ACTION.—No warning label with respect to tobacco products, or any other tobacco product for which warning labels have been required under this section, other than the warning labels required under this Act, shall be required by any State or local statute or regulation to be included on any package of a tobacco product.

“(2) EFFECT ON LIABILITY LAW.—Nothing in this section shall relieve any person from liability at common law or under State statutory law to any other person.

“(e) VIOLATION OF SECTION.—Any tobacco product that is in violation of this section shall be deemed to be misbranded.

**“SEC. 573. GENERAL RESPONSIBILITIES OF MANUFACTURERS, DISTRIBUTORS AND RETAILERS.**

“Each manufacturer, distributor, and retailer shall ensure that the tobacco products it manufactures, labels, advertises, packages, distributes, sells, or otherwise holds for sale comply with all applicable requirements of this Act.

**“SEC. 574. DISCLOSURE AND REPORTING OF TOBACCO AND NONTOBACCO INGREDIENTS AND CONSTITUENTS.**

“(a) DISCLOSURE OF ALL INGREDIENTS.—

“(1) IMMEDIATE AND ANNUAL DISCLOSURE.—Not later than 30 days after the date of enactment of this subchapter, and annually thereafter, each manufacturer of a tobacco product shall submit to the Secretary an ingredient list for each brand of tobacco product it manufactures that contains the information described in paragraph (2).

“(2) REQUIREMENTS.—The list described in paragraph (1) shall, with respect to each brand or variety of tobacco product of a manufacturer, include—

“(A) a list of all ingredients, constituents, substances, and compounds that are found in or added to the tobacco or tobacco product (including the paper, filter, or packaging of the product if applicable) in the manufacture of the tobacco product, for each brand or variety of tobacco product so manufactured, including, if determined necessary by the Secretary, any material added to the tobacco used in the product prior to harvesting;

“(B) the quantity of the ingredients, constituents, substances, and compounds that are listed under subparagraph (A) in each brand or variety of tobacco product;

“(C) the nicotine content of the product, measured in milligrams of nicotine;

“(D) for each brand or variety of cigarettes—

“(i) the filter ventilation percentage (the level of air dilution in the cigarette as provided by the ventilation holes in the filter, described as a percentage);

“(ii) the pH level of the smoke of the cigarette; and

“(iii) the tar, unionized (free) nicotine, and carbon monoxide delivery level and any other smoking conditions established by the Secretary, reported in milligrams of tar, nicotine, and carbon monoxide per cigarette;

“(E) for each brand or variety of smokeless tobacco products—

“(i) the pH level of the tobacco;

“(ii) the moisture content of the tobacco expressed as a percentage of the weight of the tobacco; and

“(iii) the nicotine content—

“(I) for each gram of the product, measured in milligrams of nicotine;

“(II) expressed as a percentage of the dry weight of the tobacco; and

“(III) with respect to unionized (free) nicotine, expressed as a percentage per gram of the tobacco and expressed in milligrams per gram of the tobacco; and

“(F) any other information determined appropriate by the Secretary.

“(3) METHODS.—The Secretary shall have the authority to promulgate regulations to establish the methods to be used by manufacturers in making the determinations required under paragraph (2).

“(4) OTHER TOBACCO PRODUCTS.—The Secretary shall prescribe such regulations as may be necessary to establish information disclosure procedures for other tobacco products.

“(b) SAFETY ASSESSMENTS.—

“(1) APPLICATION TO NEW INGREDIENTS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subchapter, and annually thereafter, each manufacturer shall submit to the Secretary a safety assessment for each new ingredient, constituent, substance, or compound that such manufacturer desires to make a part of a tobacco product. Such new ingredient, constituent, substance, or compound shall not be included in a tobacco product prior to approval by the Secretary of such a safety assessment.

“(B) METHOD OF FILING.—A safety assessment submitted under subparagraph (A) shall be signed by an officer of the manufacturer who is acting on behalf of the manufacturer and who has the authority to bind the manufacturer, and contain a statement that ensures that the information contained in the assessment is true, complete and accurate.

“(C) DEFINITION OF NEW INGREDIENT.—For purposes of subparagraph (A), the term ‘new ingredient, constituent, substance, or compound’ means an ingredient, constituent, substance, or compound listed under subsection (a)(1) that was not used in the brand or variety of tobacco product involved prior to January 1, 1998.

“(2) APPLICATION TO OTHER INGREDIENTS.—With respect to the application of this section to ingredients, constituents substances, or compounds listed under subsection (a) to which paragraph (1) does not apply, all such ingredients, constituents, substances, or compounds shall be reviewed through the safety assessment process within the 5-year period beginning on the date of enactment of this subchapter. The Secretary shall develop a procedure for the submission of safety assessments of such ingredients, constituents, substances, or compounds that staggers such safety assessments within the 5-year period.

“(3) BASIS OF ASSESSMENT.—The safety assessment of an ingredient, constituent, substance, or compound described in paragraphs (1) and (2) shall—

“(A) be based on the best scientific evidence available at the time of the submission of the assessment; and

“(B) demonstrate that there is a reasonable certainty among experts qualified by scientific training and experience who are consulted, that the ingredient, constituent, substance, or compound will not present any risk to consumers or the public in the quantities used under the intended conditions of use.

“(c) PROHIBITION.—

“(1) REGULATIONS.—Not later than 12 months after the date of enactment of this subchapter, the Secretary shall promulgate regulations to prohibit the use of any ingredient, constituent, substance, or compound in the tobacco product of a manufacturer—

“(A) if no safety assessment has been submitted by the manufacturer for the ingredient, constituent, substance, or compound as otherwise required under this section; or

“(B) if the Secretary finds that the manufacturer has failed to demonstrate the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment under paragraph (2).

“(2) REVIEW OF ASSESSMENTS.—

“(A) GENERAL REVIEW.—Not later than 180 days after the receipt of a safety assessment under subsection (b), the Secretary shall review the findings contained in such assessment and approve or disapprove of the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment. The Secretary may, for good cause, extend the period for such review. The Secretary shall provide notice to the manufacturer of an action under this subparagraph.

“(B) INACTION BY SECRETARY.—If the Secretary fails to act with respect to an assessment of an existing ingredient, constituent, substance, or additive during the period referred to in subparagraph (A), the manufacturer of the tobacco product involved may continue to use the ingredient, constituent, substance, or compound involved until such time as the Secretary makes a determination with respect to the assessment.

“(d) RIGHT TO KNOW; FULL DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

“(1) IN GENERAL.—Except as provided in paragraph (3), a package of a tobacco product shall disclose all ingredients, constituents, substances, or compounds contained in the product in accordance with regulations promulgated under section 701(a) by the Secretary.

“(2) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—The regulations referred to in paragraph (1) shall require that the package of a tobacco product disclose, with respect to the tobacco contained in the product—

“(A) the percentage that is domestic tobacco; and

“(B) the percentage that is foreign tobacco.

“(3) HEALTH DISCLOSURE.—Notwithstanding section 301(j), the Secretary may require the public disclosure of any ingredient, constituent, substance, or compound contained in a tobacco product that relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, if the Secretary determines that such disclosure will promote the public health.

**“SEC. 575. REDUCED RISK PRODUCTS.**

“(a) PROHIBITION.—

“(1) IN GENERAL.—No manufacturer, distributor or retailer of tobacco products may make any direct or implied statement in advertising or on a product package that could reasonably be interpreted to state or imply a reduced health risk associated with a tobacco product unless the manufacturer demonstrates to the Secretary, in such form as the Secretary may require, that based on the best available scientific evidence the product significantly reduces the overall health risk to the public when compared to other tobacco products.

“(2) SUBMISSION TO SECRETARY.—Prior to making any statement described in paragraph (1), a manufacturer, distributor or retailer shall submit such statement to the Secretary, who shall review such statement to ensure its accuracy and, in the case of advertising, to prevent such statement from increasing, or preventing the contraction of, the size of the overall market for tobacco products.

“(b) DETERMINATION BY SECRETARY.—If the Secretary determines that a statement described in subsection (a)(2) is permissible because the tobacco product does present a significantly reduced overall health risk to the public, the Secretary may permit such statement to be made.

“(c) DEVELOPMENT OR ACQUISITION OF REDUCED RISK TECHNOLOGY.—

“(1) IN GENERAL.—Any manufacturer that develops or acquires any technology that the manufacturer reasonably believes will reduce the risk from tobacco products shall notify the Secretary of the development or acquisition of the technology. Such notice shall be in such form and within such time as the Secretary shall require.

“(2) CONFIDENTIALITY.—With respect to any technology described in paragraph (1) that is in the early stages of development (as determined by the Secretary), the Secretary shall establish protections to ensure the confidentiality of any proprietary information submitted to the Secretary under this subsection during such development.

“SEC. 576. ACCESS TO COMPANY INFORMATION.

“(a) COMPLIANCE PROCEDURES.—Each manufacturer of tobacco products shall establish procedures to ensure compliance with this Act.

“(b) REQUIREMENT.—In addition to any other disclosure obligations under this Act, the KIDS Act, or any other law, each manufacturer of tobacco products shall, not later than 90 days after the date of the enactment of the KIDS Act and thereafter as required by the Secretary, disclose to the Secretary all nonpublic information and research in its possession or control relating to the addiction or dependency, or the health or safety of tobacco products, including (without limitation) all research relating to processes to make tobacco products less hazardous to consumers and the research and documents described in subsection (c).

“(c) RESEARCH AND DOCUMENTS.—The documents described in this section include any documents concerning tobacco product research relating to—

“(1) nicotine, including—

“(A) the interaction between nicotine and other components in tobacco products including ingredients in the tobacco and smoke components;

“(B) the role of nicotine in product design and manufacture, including product charters, and parameters in product development, the tobacco blend, filter technology, and paper;

“(C) the role of nicotine in tobacco leaf purchasing;

“(D) reverse engineering activities involving nicotine (such as analyzing the products of other companies);

“(E) an analysis of nicotine delivery; and

“(F) the biology, psychopharmacology and any other health effects of nicotine;

“(2) other ingredients, including—

“(A) the identification of ingredients in tobacco products and constituents in smoke, including additives used in product components such as paper, filter, and wrapper;

“(B) any research on the health effects of ingredients; and

“(C) any research or other information explaining what happens to ingredients when they are heated and burned;

“(3) less hazardous or safer products, including any research or product development information on activities involving reduced risk, less hazardous, low-tar or reduced-tar, low-nicotine or reduced-nicotine or nicotine-free products; and

“(4) tobacco product advertising, marketing and promotion, including—

“(A) documents related to the design of advertising campaigns, including the desired

demographics for individual products on the market or being tested;

“(B) documents concerning the age of initiation of tobacco use, general tobacco use behavior, beginning smokers, pre-smokers, and new smokers;

“(C) documents concerning the effects of advertising; and

“(D) documents concerning future marketing options or plans in light of the requirements and regulations to be imposed under this subchapter or the KIDS Act.

“(d) AUTHORITY OF SECRETARY.—With respect to tobacco product manufacturers, the Secretary shall have the same access to records and information and inspection authority as is available with respect to manufacturers of other medical devices.

“SEC. 577. OVERSIGHT OF TOBACCO PRODUCT MANUFACTURING.

“The Secretary shall by regulation prescribe good manufacturing practice standards for tobacco products. Such regulations shall be modeled after good manufacturing practice regulations for medical devices, food, and other items under section 520(f). Such standards shall be directed specifically toward tobacco products, and shall include—

“(1) a quality control system, to ensure that tobacco products comply with such standards;

“(2) a system for inspecting tobacco product materials to ensure their compliance with such standards;

“(3) requirements for the proper handling of finished tobacco products;

“(4) strict tolerances for pesticide chemical residues in or on tobacco or tobacco product commodities in the possession of the manufacturer, except that nothing in this paragraph shall be construed to affect any authority of the Environmental Protection Agency;

“(5) authority for officers or employees of the Secretary to inspect any factory, warehouse, or other establishment of any tobacco product manufacturer, and to have access to records, files, papers, processes, controls and facilities related to tobacco product manufacturing, in accordance with appropriate authority and rules promulgated under this Act; and

“(6) a requirement that the tobacco product manufacturer maintain such files and records as the Secretary may specify, as well as that the manufacturer report to the Secretary such information as the Secretary shall require, in accordance with section 519.

“SEC. 578. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“Notwithstanding section 521 and except as otherwise provided for in section 572(e), nothing in this subchapter shall be construed as prohibiting a State or locality from imposing requirements, prohibitions, penalties or other measures to further the purposes of this subchapter that are in addition to the requirements, prohibitions, or penalties required under this subchapter. State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products.”

SEC. 113. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle (and the amendments made by this subtitle).

(b) TRIGGER.—No expenditures shall be made under this subtitle (or the amendments made by this subtitle) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

SEC. 114. REPEALS.

The following provisions of law are repealed:

(1) The Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), except for the first section and sections 5(d)(1) and (2) and 6.

(2) The Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.), except for sections 1, 3(f) and 8(a) and (b).

(3) The Comprehensive Smoking Education Act of 1964 (Public law 98-474).

## TITLE II—MISCELLANEOUS PROVISIONS

### SEC. 201. NONAPPLICATION TO TOBACCO PRODUCERS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall not apply to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives.

(b) RULE OF CONSTRUCTION.—Nothing in this Act, or an amendment made by this Act, shall be construed to provide the Secretary of Health and Human Services with the authority to—

(1) enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer; or

(2) promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer that affect production.

(c) MANUFACTURER ACTING AS PRODUCER.—Notwithstanding any other provision of this section, if a producer of tobacco leaf is also a tobacco product manufacturer or is owned or controlled by a tobacco product manufacturer, the producer shall be subject to the provisions of this Act, and the amendments made by this Act, in the producer's capacity as a manufacturer.

(d) DEFINITION.—In this section, the term “controlled by” means a producer that is a member of the same controlled group of corporations, as that term is used for purposes of section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

### SEC. 202. EQUAL TREATMENT OF RETAIL OUTLETS.

The Secretary of Health and Human Services shall promulgate regulations to require that retail establishments that are accessible to individuals under the age of 18, for which the predominant business is the sale of tobacco products, comply with any advertising restrictions applicable to such establishments.

By Mr. REID:

S. 249. A bill to amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources; to the Committee on Finance.

Mr. REID. Mr. President, the bill I have introduced expands the existing production tax credit for renewable energy technology to cover all renewable energy technologies.

We have a crisis in America today. It is called electricity. It is called power. What took place and is taking place in California is only a preview of things that are going to happen all over America unless we do something about it. It is time to recognize the present system isn't working.

We can criticize California and what they did. It is obvious to everyone that their deregulation program simply was not workable. It wasn't workable because they were energy inefficient. They did not produce enough energy inside the State of California for the

deregulation bill they passed to work. The only time a deregulation bill such as they had would work is if you have a State that produces more electricity than it uses. There are some examples of that. California, however, decided they were going to deregulate, even though they didn't have enough electricity produced within the State. They figured they could buy cheap power elsewhere and have it brought into California. It was a recipe for disaster. The disaster hit. They are now trying to work their way out of the problem.

There is no question that the current energy crisis in California has demonstrated that America must diversify its energy mix. Already in Nevada electricity rates have risen six times; the natural gas price has increased more than 75 percent. This is a real problem. All we have to do is look around. I have a letter from a man named Ronald Feldstein from Carson City, NV. Among other things, he said: I was horrified to read that Southwest Gas was increasing our gas bills 35 percent effective February 1. Nevada is a poor State, mostly composed of senior retired citizens.

I add editorially, that isn't true, but we do have lots and lots of senior citizens. To the author of this letter, it seems the State of Nevada is composed mostly of senior citizens.

Last month, he says, his Southwest Gas bill was over \$100; a 35-percent increase will mean an additional \$35 on his electricity bill. The only way a senior can afford such a huge increase is to give up something. In other words, lower his standard of living. That usually means giving up a certain prescription drug or lowering his food bill.

He went on to say other things, but I think that conveys the problem we have in Nevada, and people all over America are about to have; that is, a huge increase in the price of fuel energy.

Ensuring that the lights and heat stay on is critical to sustaining America's economic growth and our quality of life. The citizens of Nevada and of this Nation demand a national energy strategy to ensure their economic well-being and security, and to provide for the quality of life they deserve.

It is a sad state of affairs that people like Mr. Feldstein, which can be multiplied in the State of Nevada thousands and thousands of times, have to make significant sacrifices to pay their energy bills. People are saying: I'm going to have to cut back on my prescriptions. I will have to cut back on the food I buy because I have a fixed income, and these power bills must be paid because I can't go without heat. Carson City, NV, is a cold place in the winter.

Nevadans understand that a national energy strategy must encompass something other than what we are doing. What we are doing now does not work. We are depending mostly on importing oil, and people who import the oil are

manipulating the price and that price is going sky high. We have to do something different. Of course, we have to do something about conservation. We must be more efficient. We must also expand our generating capacity. How are we going to do that? There are some who say that one of the ways is to do something with clean coal technology. That is something I am willing to take a look at, hopefully, so we can reduce the global warming problem when it is necessary to use coal. But it is difficult to significantly reduce harmful emissions with coal.

I have supported clean coal technology. We have a plant near Reno, NV, that started out with clean coal technology. It is important we do that. We are not going to develop any more nuclear powerplants in America in the foreseeable future. There are too many problems. It is too expensive. We have no way of disposing of the waste.

What else can we do? We have powerplants now, but the primary way they can be constructed is if they are fueled by natural gas. The cost of natural gas has gone way up.

What else can we do? I think one of the things we can do is develop renewable energy resources. This is a responsible way to expand our power capacity without compromising air or water quality.

Fossil fuel plants pump out over 11 million tons of pollutants into our air each year. This is not 11 million pounds, but tons, into our air each year. Powerplants in the United States are responsible for 35 percent of our national carbon dioxide emissions which contribute to global climate change, global warming. Powerplants in the United States are responsible for 66 percent of sulphur dioxide, which causes acid rain, 25 percent of nitrogen oxides, which lead to smog, and 21 percent of mercury, which poisons fish and other animals. That is what powerplants in the United States do. There is no disputing that. That is a fact.

The legislation I have introduced will renew the wind power production tax credit, expand the credit to additional renewable technologies, including solar, open-loop biomass, poultry and animal waste, geothermal, and incremental hydropower facilities. There is so much that can be done.

We are constructing, as we speak, 90 miles northwest of Las Vegas at the Nevada Test Site, wind-generating capacity that in 3 years will produce from windmills enough electricity, 265 megawatts, to power a quarter of a million homes.

These renewable energy sources can enhance America's energy supply on a scale of 1 to 3 years, considerably shorter than the time required for a fossil fuel powerplant.

The proposed production tax credit for all these renewable energy sources would be made permanent. One of the problems we have with many of our tax credits is we do them for a short period of time. People don't know whether

they are going to be in existence, and therefore they are unwilling to commit long term. This proposed production tax credit, if it is made permanent, will encourage use of renewable energy and signal America's long-term commitment to clean energy, to a healthy environment, and to our energy independence.

My bill also allows for coproduction credits to encourage blending of renewable energy with traditional fuels and provides a credit for renewable facilities on Native American and Native Alaskan lands.

Renewable energy is poised to make major contributions to our Nation's energy needs over the next decade.

It is so important we recognize that within 3 years one wind-generating farm in Nevada will produce 8 percent of all the electricity needs of the state. We can multiply that by 6 years to 20 percent. It is remarkable what can be done.

Nevada has already developed 200 megawatts of geothermal power with a longer term potential of more than 2,500 megawatts, enough capacity to meet the State's energy needs. Growing renewable energy industries in the United States will also help provide growing employment opportunities in the United States and help U.S. renewable technologies compete in world markets.

In States such as Nevada, expanded renewable energy production will provide jobs in rural areas—areas that have been largely left out of America's recent economic boom.

The Department of Energy has estimated we could increase our generation of geothermal energy almost tenfold, supplying 10 percent of the energy needs of the West, and expand wind energy production to serve the electricity needs of 10 million homes.

Renewable energy, as an alternative to traditional energy sources, is a commonsense way to ensure the American people that they can have a reliable source of power at an affordable price.

The United States needs to move away from its dependence on fossil fuels that pollute the environment and undermine our national security interests and balance of trade.

If there were ever a national security interest that we have, it would be doing something about the importation of fossil fuel. We have to do something to stop our dependence on these countries that manipulate the price of oil and other fuels. We have to do that; it is essential for our national security.

We need to send the signal to utility companies all over America that we are committed in the long term to the growth of renewable energy. We must accept this commitment for the energy security of the United States, for the protection of our environment, and for the health of the American people and literally the world.

By Mr. BIDEN (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr.

DASCHLE, Mr. KERRY, Mr. BAUCUS, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Mr. BYRD, Mr. CARPER, Mr. L. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORZINE, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HELMS, Mr. HOLLINGS, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI, Mr. WARNER, and Mr. WELLSTONE):

S. 250. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, I rise today to introduce, along with Senator HUTCHISON, Senator LOTT, Senator DASCHLE, and 47 other cosponsors, the High Speed Rail Investment Act of 2001. With this legislation we continue the work begun by our former colleagues, Senator Bill Roth, Senator Pat Moynihan, and especially Senator Frank Lautenberg, who worked so hard in the last Congress to support high speed intercity passenger rail.

Since the very first steam locomotive in this country rolled in Newcastle, Delaware, railroading has been a capital-intensive industry. From the rolling stock to the right of way, railroads require major long-term investments. But unlike every other passenger rail system in the world, Amtrak has lacked a secure source of public support for its capital needs. Over the years, along with many of my colleagues here in the Senate, I have looked for ways to right that wrong.

The bill that Senator HUTCHISON and I introduce today is designed to provide Amtrak with the capital funds to establish a truly national high speed passenger rail system. The idea is simple, and it is modeled on a program we already have in place to support another important public priority, public school construction. Under this legislation, Amtrak is authorized to issue, over the next ten years, up to \$12 billion in bonds. Instead of an interest payment, the holders of those bonds will be paid by a rebate on their federal income taxes.

The funds generated from the sale of the bonds will be available for investments in high speed rail corridors throughout the country, from the established and profitable Northeast Corridor to planned corridors from Florida to the Pacific Northwest. One thing I learned from my days on the County Council in Delaware was that each route on a bus system supports and

sustains the others. Cut one route, and ridership will fall off on the others as the whole system becomes less useful. Conversely, the more complete the system the more people will find that it meets their needs.

Another thing I learned on the county council, Mr. President, is that if state and local governments are required to put up some of their own funds to match assistance from the federal government, they will think long and hard about the best use of their funds. That is why this legislation requires a twenty percent match by the state before a high speed rail project can qualify for the support this bill provides. This provision not only provides an additional safeguard that high speed rail investments meet the many real needs the states have, but it also assures that the funds will be there to pay off the bonds as they come due.

Before a project is eligible for the funds raised under this bill, it must be reviewed by the Secretary of Transportation for its financial soundness, its role in a national passenger rail system, and its contribution to balance among the many regional corridors in the national system.

I know that I don't have to tell my colleagues about the growing chorus of public complaints about air travel in this country. All over the country, overworked and over booked airports and flyways keep passengers sitting in terminals or out on the runways, waiting for some movement in a clogged system. The vast majority of our most crowded airports are located near rail lines that could take some of those passengers where they need to go faster, safer, and more comfortably.

But only if we make the same investment in passenger rail that every other advanced economy does, Mr. President. Today, those tracks carry no passengers while our airports are bursting at the seams.

The same is true for the major highway corridors between our nation's cities. Those arteries are clogged with every kind of traffic, from freight haulers to vacationers to business travelers. Many of them run parallel to major rail corridors, that could share some of that load. But only, Mr. President, if we make the same investment in passenger rail that every other advanced economy does.

Just look at the lack of balance in our transportation spending, Mr. President. We spend \$80 billion a year on our highways. We spend a billion just cleaning up road kills, and more than a billion a year salting icy roads. But we spend less than \$600 million a year on rail infrastructure.

We spend \$19 billion a year on aviation, but, again, less than \$600 million on rail.

These numbers are even more disturbing when you realize what you get for each dollar spent. Look at the enormous cost of individual projects. Construction of a freeway in Los Angeles costs \$125 million per mile. Per mile,

Mr. President. But that is cheap compared to the "Big Dig" Central Artery in Boston—the price tag on that is \$1.5 billion per mile. Airport construction is just as expensive: the Denver International Airport cost \$4.2 billion. To expand the Los Angeles International Airport will involve \$3 billion to \$4 billion in ground transportation costs alone.

High speed passenger rail investments can get a lot more done for a lot less money—five to ten times as much as an investment in new highways. For example, expanding I-95, our major east-coast highway corridor, by just one lane can cost as much as \$50 million a mile. That works out to about 45 passengers per hour for every million dollars. But a mile of new, high-speed rail track, which can cost \$8 million a mile, will move 450 passengers per hour for every million dollars invested. That's a good deal all around—fewer cars, less pollution, more people getting where they want to go.

Under the terms of the Amtrak Reform Act of 1997, we have put Amtrak on a path to self-sufficiency in its operating budget by the year 2003. I have said many times that I do not think that this is the wisest course. Given the long history of underfunding Amtrak's needs, I am far from convinced that we have put Amtrak in a position to reach full operating self sufficiency by that artificial deadline. But whatever we make of that deadline on operating support, Mr. President, it is clear that the very least we can do is provide Amtrak with the capital funds to become the passenger rail service this nation needs.

With the commitment of the leadership in both parties, with the support of over half of the Senate on the day of its introduction, this legislation is off to a great start. We will need all of these resources and more to see this through to final passage, and to get a real, world-class passenger rail system for the United States under way.

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. 250

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

#### **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) **SHORT TITLE.**—This Act may be cited as the "High-Speed Rail Investment Act of 2001".

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

#### **SEC. 2. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.**

(a) **IN GENERAL.**—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:



**"Subpart H—Nonrefundable Credit for Holders of Qualified Amtrak Bonds"**

"Sec. 54. Credit to holders of qualified Amtrak bonds.

**"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.**

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified Amtrak bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified Amtrak bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified Amtrak bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED AMTRAK BOND.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified Amtrak bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for any qualified project,

"(B) the bond is issued by the National Railroad Passenger Corporation,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it meets the State contribution requirement of paragraph (3) with respect to such project and that it has received the required State contribution payment before the issuance of such bond,

"(iii) certifies that it has obtained the written approval of the Secretary of Trans-

portation for such project, including a finding by the Inspector General of the Department of Transportation that there is a reasonable likelihood that the proposed program will result in a positive incremental financial contribution to the National Railroad Passenger Corporation and that the investment evaluation process includes a return on investment, leveraging of funds (including State capital and operating contributions), cost effectiveness, safety improvement, mobility improvement, and feasibility, and

"(iv) certifies that it has obtained written certification by the Secretary, after consultation with the Secretary of Transportation, that, in the case of a qualified project which results in passenger trains operating at speeds greater than 79 miles per hour, the issuer has entered into a written agreement with the rail carriers (as defined in section 24102 of title 49, United States Code) the properties of which are to be improved by such project as to the scope and estimated cost of such project and the impact on freight capacity of such rail carriers; Provided that the National Railroad Passenger Corporation shall not exercise its rights under section 24308(a) of such title 49 to resolve disputes with respect to such project or the cost of such project.

"(D) the term of each bond which is part of such issue does not exceed 20 years,

"(E) the payment of principal with respect to such bond is the obligation of the National Railroad Passenger Corporation (regardless of the establishment of the trust account under subsection (j)), and

"(F) the issue meets the requirements of subsection (h).

"(2) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(A), the proceeds of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified Amtrak bond.

"(3) STATE CONTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C)(ii), the State contribution requirement of this paragraph is met with respect to any qualified project if the National Railroad Passenger Corporation has a written binding commitment from 1 or more States to make matching contributions not later than the date of issuance of the issue of not less than 20 percent of the cost of the qualified project. State matching contributions may include privately funded contributions.

"(B) USE OF STATE MATCHING CONTRIBUTIONS.—The matching contributions described in subparagraph (A) with respect to each qualified project shall be used—

"(i) as necessary to redeem bonds which are a part of the issue with respect to such project, and

"(ii) in the case of any remaining amount, at the election of the National Railroad Passenger Corporation and the contributing State—

"(I) to fund a qualified project,

"(II) to redeem other qualified Amtrak bonds, or

"(III) for the purposes of subclauses (I) and (II).

"(C) STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to any qualified project on the high-speed rail corridors designated under section 104(d)(2) of

title 23, United States Code, the State contribution requirement of this paragraph may include the value of land to be contributed by a State for right-of-way and may be derived by a State directly or indirectly from Federal funds, including transfers from the Highway Trust Fund under section 9503.

"(ii) SPECIAL RULES REGARDING USE OF BOND PROCEEDS.—Proceeds from the issuance of bonds for such a qualified project may be used to the extent necessary for the purpose of subparagraph (B)(i), and any such proceeds deposited into the trust account required under subsection (j) shall be deemed expenditures for the qualified project under subsection (h).

"(D) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—Except as provided in subparagraph (C), for purposes of this paragraph, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

"(E) NO STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—With respect to any qualified project described in subsection (e)(4), the State contribution requirement of this paragraph is zero.

"(4) QUALIFIED PROJECT.—

"(A) IN GENERAL.—The term 'qualified project' means—

"(i) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for the northeast rail corridor between Washington, D.C. and Boston, Massachusetts,

"(ii) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, and

"(iii) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for other intercity passenger rail corridors for the purpose of increasing railroad speeds to at least 90 miles per hour.

"(B) REFINANCING RULES.—For purposes of subparagraph (A), a refinancing shall constitute a qualified project only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the National Railroad Passenger Corporation—

"(i) after the date of the enactment of this section,

"(ii) for a term of not more than 3 years,

"(iii) to finance or acquire capital improvements described in subparagraph (A), and

"(iv) in anticipation of being refinanced with proceeds of a qualified Amtrak bond.

"(C) PRIOR ISSUANCE COSTS.—For purposes of subparagraph (A), a qualified project may include the costs a State incurs prior to the issuance of the bonds to fulfill any statutory requirements directly necessary for implementation of the project.

"(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a qualified Amtrak bond limitation for each fiscal year. Such limitation is—

"(A) \$1,200,000,000 for each of the fiscal years 2002 through 2011, and

"(B) except as provided in paragraph (5), zero after fiscal year 2011.

“(2) BONDS FOR RAIL CORRIDORS.—Not more than \$3,000,000,000 of the limitation under paragraph (1) may be designated for any 1 rail corridor described in clause (i) or (ii) of subsection (d)(4)(A).”

“(3) BONDS FOR OTHER PROJECTS.—Not more than \$100,000,000 of the limitation under paragraph (1) for any fiscal year may be allocated to all qualified projects described in subsection (d)(4)(A)(iii).”

“(4) BONDS FOR ALASKA RAILROAD.—The Secretary of Transportation may allocate to the Alaska Railroad a portion of the qualified Amtrak limitation for any fiscal year in order to allow the Alaska Railroad to issue bonds which meet the requirements of this section for use in financing any project described in subsection (d)(4)(A)(iii) (determined without regard to the requirement of increasing railroad speeds). For purposes of this section, the Alaska Railroad shall be treated in the same manner as the National Railroad Passenger Corporation.”

“(5) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year—

“(A) the limitation amount under paragraph (1), exceeds

“(B) the amount of bonds issued during such year which are designated under subsection (d)(1)(C)(i),

the limitation amount under paragraph (1) for the following fiscal year (through fiscal year 2015) shall be increased by the amount of such excess.

“(6) ADDITIONAL SELECTION CRITERIA.—In selecting qualified projects for allocation of the qualified Amtrak bond limitation under this subsection, the Secretary of Transportation—

“(A) may give preference to any project with a State matching contribution rate exceeding 20 percent, and

“(B) shall consider regional balance in infrastructure investment and the national interest in ensuring the development of a nation-wide high-speed rail transportation network.

“(f) OTHER DEFINITIONS.—For purposes of this subpart—

“(1) BOND.—The term ‘bond’ includes any obligation.

“(2) CREDIT ALLOWANCE DATE.—The term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term includes the last day on which the bond is outstanding.

“(3) STATE.—The term ‘State’ means the several States and the District of Columbia, and any subdivision thereof.

“(4) PROGRAM.—The term ‘program’ means 1 or more projects implemented over 1 or more years to support the development of intercity passenger rail corridors.

“(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(h) SPECIAL RULES RELATING TO ARBITRAGE.—

“(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

“(A) to spend at least 95 percent of the proceeds of the issue for 1 or more qualified projects within the 5-year period beginning on such date, and

“(B) to proceed with due diligence to complete such projects and to spend the proceeds of the issue.

“(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at

least 95 percent of the proceeds of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, an issue shall be treated as continuing to meet the requirements of this subsection if either—

“(A) the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period, or

“(B) the following requirements are met:

“(i) The issuer spends at least 75 percent of the proceeds of the issue for 1 or more qualified projects within the 5-year period beginning on the date of issuance.

“(ii) The issuer has proceeded with due diligence to spend the proceeds of the issue within such 5-year period and continues to proceed with due diligence to spend such proceeds.

“(iii) The issuer pays to the Federal Government any earnings on the proceeds of the issue that accrue after the end of such 5-year period.

“(iv) Either—

“(I) at least 95 percent of the proceeds of the issue is expended for 1 or more qualified projects within the 6-year period beginning on the date of issuance, or

“(II) the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 6-year period.

“(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

“(1) IN GENERAL.—If any bond which when issued purported to be a qualified Amtrak bond ceases to be a qualified Amtrak bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

“(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

“(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

“(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

“(3) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this part, or

“(ii) the amount of the tax imposed by section 55.

“(j) USE OF TRUST ACCOUNT.—

“(1) IN GENERAL.—The amount of any matching contribution with respect to a qualified project described in subsection (d)(3)(B)(i) or (d)(3)(B)(ii)(II) and the temporary period investment earnings on proceeds of the issue with respect to such project, and any earnings thereon, shall be

held in a trust account by a trustee independent of the National Railroad Passenger Corporation to be used to the extent necessary to redeem bonds which are part of such issue.

“(2) USE OF REMAINING FUNDS IN TRUST ACCOUNT.—Upon the repayment of the principal of all qualified Amtrak bonds issued under this section, any remaining funds in the trust account described in paragraph (1) shall be available—

“(A) to the trustee described in paragraph (1), to meet any remaining obligations under any guaranteed investment contract used to secure earnings sufficient to repay the principal of such bonds, and

“(B) to the issuer, for any qualified project.

“(k) OTHER SPECIAL RULES.—

“(1) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

“(2) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified Amtrak bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(3) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

“(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified Amtrak bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

“(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the qualified Amtrak bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

“(4) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

“(5) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

“(6) REPORTING.—Issuers of qualified Amtrak bonds shall submit reports similar to the reports required under section 149(e).”

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest), as amended by section 505(d), is amended by adding at the end the following new paragraph:

“(9) REPORTING OF CREDIT ON QUALIFIED AMTRAK BONDS.—

“(A) IN GENERAL.—For purposes of subsection (a), the term ‘interest’ includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

“(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).



“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”.

(C) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Subpart H. Nonrefundable Credit for Holders of Qualified Amtrak Bonds.”.

(2) Section 6401(b)(1) is amended by striking “and G” and inserting “G, and H”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after September 30, 2001.

(e) MULTI-YEAR CAPITAL SPENDING PLAN AND OVERSIGHT.—

(1) AMTRAK CAPITAL SPENDING PLAN.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall annually submit to the President and Congress a multi-year capital spending plan, as approved by the Board of Directors of the Corporation.

(B) CONTENTS OF PLAN.—Such plan shall identify the capital investment needs of the Corporation over a period of not less than 5 years and the funding sources available to finance such needs and shall prioritize such needs according to corporate goals and strategies.

(C) INITIAL SUBMISSION DATE.—The first plan shall be submitted before the issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERSIGHT OF AMTRAK TRUST ACCOUNT AND QUALIFIED PROJECTS.—

(A) TRUST ACCOUNT OVERSIGHT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(j) of such Code (as so added) is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(B) PROJECT OVERSIGHT.—The National Railroad Passenger Corporation shall contract for an annual independent assessment of the costs and benefits of the qualified projects financed by such qualified Amtrak bonds, including an assessment of the investment evaluation process of the Corporation. The annual assessment shall be included in the plan submitted under paragraph (1).

(C) OVERSIGHT FUNDING.—Not more than 0.5 percent of the amounts made available through the issuance of qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of such Code (as so added) may be used by the National Railroad Passenger Corporation for assessments described in subparagraph (B).

(f) PROTECTION OF HIGHWAY TRUST FUND.—

(1) CERTIFICATION BY THE SECRETARY OF THE TREASURY.—The issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation or the Alaska Railroad pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section) is conditioned on certification by the Secretary of the Treasury, after consultation with the Secretary of Transportation, within 30 days of a request by the issuer, that with respect to funds of the Highway Trust Fund described under paragraph (2), the issuer either—

(A) has not received such funds during fiscal years commencing with fiscal year 2002 and ending before the fiscal year the bonds are issued, or

(B) has repaid to the Highway Trust Fund any such funds which were received during such fiscal years.

(2) APPLICABILITY.—This subsection shall apply to funds received directly, or indirectly from a State or local transit authority, from the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986, except for funds authorized to be expended under section 9503(c) of such Code, as in effect on the date of the enactment of this Act.

(3) NO RETROACTIVE EFFECT.—Nothing in this subsection shall adversely affect the entitlement of the holders of qualified Amtrak bonds to the tax credit allowed pursuant to section 54 of the Internal Revenue Code of 1986 (as so added) or to repayment of principal upon maturity.

(g) EXEMPTION FROM TAXES FOR HIGH-SPEED RAIL LINES AND IMPROVEMENTS.—Notwithstanding any other provision of law, no rail carrier (as defined in section 24102 of title 49, United States Code) shall be required to pay any tax or fee imposed by the Internal Revenue Code of 1986 or by any State or local government with respect to the acquisition, improvement, or ownership of—

(1) personal or real property funded by the proceeds of qualified Amtrak bonds (as defined in section 54(d) of the Internal Revenue Code of 1986 (as added by this section) or any State or local bond (as defined in section 103(c)(1) of such Code), or revenues or income from such acquisition, improvement, or ownership, or

(2) rail lines in high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, that are leased by the National Railroad Passenger Corporation.

(h) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code (as added by this section) not later than 90 days after the date of the enactment of this Act.

(i) ISSUANCE OF TAX-EXEMPT BONDS FOR RAIL PASSENGER PROJECTS.—

(1) FUNDING STATE MATCH REQUIREMENT.—Section 142(a) (relating to exempt facility bond) is amended by striking “or” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, or”, and by adding at the end the following new paragraph:

“(13) the State contribution requirement for qualified projects under section 54.”.

(2) REPEAL OF GOVERNMENTAL OWNERSHIP REQUIREMENT FOR MASS COMMUTING FACILITIES.—Section 142(b)(1)(A) (relating to certain facilities must be governmentally owned) is amended by striking “(3).”.

(3) DEFINITION OF HIGH-SPEED INTERCITY RAIL FACILITIES.—Section 142(i)(1) is amended by striking “in excess of 150 miles per hour” and inserting “prescribed in section 104(d)(2) of title 23, United States Code.”.

(4) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 (relating to exception for certain bonds) is amended by striking paragraph (4) and the last sentence of such subsection and inserting the following new paragraph:

“(4) any exempt facility bond issued as part of an issue described in paragraph (3), (11), or (13) of section 142(a) (relating to mass commuting facilities, high-speed intercity rail facilities, and State contribution requirements under section 54).”.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued after the date of enactment of this Act.

Mr. KERRY. Mr. President, I am proud to join our esteemed majority and minority leaders in sponsoring the High Speed Rail Investment Act of 2001. I am proud that our two leaders have been willing and able to work in a bipartisan manner to fulfill a promise that they made last month to re-introduce this critical legislation. I thank them, and I thank Senator BIDEN and Senator HUTCHISON for their strong leadership as well. Their commitment to this bill cannot be overstated.

This legislation would allow Amtrak to sell \$12 billion in bonds over the next ten years and permit the federal government to provide tax credits to bondholders in lieu of interest payments. Amtrak would use this money to upgrade existing rail lines to high-speed rail capability. This bill has supporters from both parties and all regions of the country.

Mr. President, high speed rail is not a partisan issue. It is not a regional issue. It is not an urban issue. The High-Speed Rail Investment Act has the support of the National Governors Association, the U.S. Conference of Mayors and the National Conference of State Legislatures. Thirty newspapers, from the New York Times and Providence Journal, to the Houston Chronicle and Seattle Post Intelligencer, have called for the enactment of this legislation.

It is in our national interest to construct a national infrastructure that is truly intermodal. Rail transportation helps alleviate the stress placed on our environment by air and highway transportation. It is a sad fact that America's rail transportation, and its lack of a national high-speed rail system, lags well behind rail transportation in most other nations—we spend less, per capita, on rail transportation than Estonia and Greece.

Mr. President, I know I made many of these same points on the floor of the Senate in December when we discussed a similar version of the High Speed Rail Investment Act. However, I believe that this legislation is critical to our nation's transportation infrastructure needs, and these facts bear repeating:

The federal government has invested \$380 billion in our highways and \$160 billion in airports since Amtrak was created. By contrast, the federal government has spent only about \$30 billion on Amtrak. We have spent just four percent of our transportation budget on rail transportation in the last 30 years. The Congress has mandated that Amtrak soon achieve operational self-sufficiency. That does not, nor should it, preclude further capital improvement grants. This is often misunderstood and misinterpreted. Amtrak has reduced its operating losses over the last two years, and remains capable of meeting its goal. However, it will continue to need the federal government to support its track upgrades, rolling stock improvements and other large-scale upgrades so that it may

maintain its trademark quality service.

There is a compelling need to invest in high-speed rail. Our highways and skyways are overburdened. Intercity passenger miles traveled have increased 80 percent since 1988, but only 5.5 percent of that has come from increased rail travel. Meanwhile, our congested skies have become even more crowded. The result, predictably, is that air travel delays are up 58 percent since 1995. Things have gotten so bad in Chicago that O'Hare airport maintains 1,500 cots for snow-bound travelers. This summer, the airport had to order additional cots to accommodate passengers left stranded by myriad delays and cancellations.

Amtrak ridership is on the rise. More than 22.5 million passengers rode Amtrak in Fiscal Year 2000, a million more than the previous year. Nearly six million riders took Amtrak in the first quarter of this fiscal year, the best first quarter in the company's 30-year history. Ridership for the quarter was up 8.5 percent, while ticket revenue climbed almost 14 percent over the first quarter of FY00. We should welcome that increased use and support it by giving Amtrak the resources it needs to provide high-quality, dependable service.

The High-Speed Rail Investment Act is critical to the future of Amtrak. For about the cost of the new Denver International Airport, we can improve intercity transportation in 29 states. For less than double the cost of constructing the new Woodrow Wilson bridge improving transportation in two states, we can create eight high-speed rail corridors in 29 states.

High-speed rail is a viable transportation alternative. There is a large and growing demand for rail service in the Northeast Corridor. Amtrak captures almost 70 percent of the business rail and air travel market between Washington and New York and 30 percent of the market share between New York and Boston. True high-speed rail will undoubtedly increase that market share. These new trains, like the Acela Express that debuted in the Northeast this year, currently run at an average of only 82 miles per hour, but with track improvements, will run at 130 miles per hour.

As a nation, we have recognized the importance of having the very best communication system, and ours is the envy of the world. That investment is one of reasons our economy is the strongest in the world. And we should do the same for our transportation system. It should be equally modern and must be fully intermodal. Rail transportation is a part of that network and I hope that we can pass this critical, cost-efficient legislation this year.

By Mr. VOINOVICH:

S. 252. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for

other purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 2001, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund, SRF Program administered by the U.S. Environmental Protection Agency, EPA.

As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the Clean Water SRF Program in 1987 to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or, as it is known, the Clean Water Act. State and local governments have used the Federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each state determines which projects get built.

The performance of the Clean Water SRF Program has been spectacular. Total federal capitalization grants have been nearly doubled by non-federal funding sources, including state contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 7,000 projects nationwide have been approved to date.

As in many states, Ohio has needs for public wastewater system improvements which greatly exceed typical Clean Water SRF funding levels. For instance, in fiscal year 2001, a level of \$1.35 billion was appropriated for the Clean Water SRF. However, in Ohio alone, about \$4 billion of improvements have been identified as necessary to address combined sewer overflow, CSO, problems, according to the latest state figures. The City of Akron, for example, has proposed a Long Term Control Plan that will cost more than \$248 million to implement—nearly 20 percent of the total SRF level appropriated in fiscal year 2001. Because of Akron's CSO problem, city sewer rates will more than double without outside funding.

Further, estimates indicate that among Ohio towns with a population of less than 10,000, there exists \$1.2 billion in CSO needs. In recent years, Ohio cities and villages have been spending more on maintaining and operating their systems in order to stave-off the inevitable upgrades. Nevertheless, their systems are aging and will need to be replaced.

While the Clean Water SRF Program's track record is excellent, the condition of our nation's overall environmental infrastructure remains alarming. A 20-year needs survey conducted by the EPA in 1996 documented \$139 billion worth of wastewater capital needs nationwide. In 1999, the national assessment was revised upward to nearly \$200 billion, in order to more accu-

ately account for expected sanitary sewer needs. This amount may be too small; private studies demonstrate that total needs are closer to \$300 billion when anticipated replacement costs are considered.

Authorization for the Clean Water SRF expired at the end of fiscal year 1994, and the continued failure of Congress to reauthorize the program sends an implicit message that wastewater collection and treatment is not a national priority. The longer we have an absence of authorization of this program, the longer it creates uncertainty about the program's future in the eyes of borrowers, which may delay or, in some cases, prevent project financing. In order to allow any kind of substantial increase in spending, reauthorization of the Clean Water SRF program is necessary in the 107th Congress.

The bill that I am introducing today will authorize a total of \$15 billion over the next five years for the Clean Water SRF. Not only would this authorization bridge the enormous infrastructure funding gap, the investment would also pay for itself in perpetuity by protecting our environment, enhancing public health, creating jobs and increasing numerous tax bases across the country. Additionally, the bill will provide technical and planning assistance for small systems, expand the types of projects eligible for loan assistance, and offer financially-distressed communities extended loan repayment periods and principal subsidies. The bill also will allow states to give priority consideration to financially-distressed communities when making loans.

The health and well-being of the American public depends on the condition of our nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted absent a crisis. Let me assure my colleagues that the costs of poor environmental infrastructure cannot be ignored and the price will pay for continued neglect will far exceed the authorization level of this bill. Now is the time to address our infrastructure needs while the costs are manageable.

In just over a decade, the Clean Water SRF Program has helped thousands of communities meet their wastewater treatment needs. My bill will help ensure that the Clean Water SRF Program remains a viable component in the overall development of our nations' infrastructure for years to come. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

By Ms. COLLINS (for herself, Mr. CONRAD, Mr. GREGG, Mr. BURNS, Mr. HUTCHINSON, Mr. ENZI, Mr. ROBERTS, Mr. ALLARD, Mr. HAGEL, Mr. DORGAN, Mr. THOMAS, and Mr. JOHNSON):

S. 253. A bill to reauthorize the Rural Education Initiative in subpart 2 of part J of title X of the Elementary and

Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I rise today to introduce the Rural Education Improvement Act. I am pleased to be joined by my colleagues, Senators CONRAD, GREGG, HUTCHINSON, ENZI, HAGEL, ROBERTS, DORGAN, THOMAS, ALLARD, BURNS, and JOHNSON, as original cosponsors of this common sense, bipartisan proposal to help rural schools make better use of federal education funds. I also want to acknowledge the valuable assistance provided over the past two years by the American Association of School Administrators.

Last Congress, I introduced the Rural Education Initiative Act—the foundation for today's legislation. I am pleased that the REIA was largely incorporated into the final appropriations bill, thus allowing small, rural school districts to combine funds from four formula grant programs, giving them the flexibility to target funds toward their students' most pressing needs. While the passage of this bill represented substantial progress, it was a one-year authorization only, and no appropriations were provided for the supplemental grant program authorized by the new law.

Mr. President, the bill we introduce today strengthens the legislation enacted last year. The Collins-Conrad bill would provide a 5-year authorization of the rural education provisions enacted last year and authorize \$150 million annually for the supplemental grant program.

Our legislation would benefit school districts with fewer than 600 students in rural communities. More than 35 percent of all school districts in the United States have 600 or fewer students. In Maine, the percentage is even higher: 56 percent of our 284 school districts have fewer than 600 students. Our legislation would help them overcome some of the most challenging obstacles they face in participating in federal education programs.

By way of background, the Elementary and Secondary Education Act authorizes formula and competitive grants that help many of our local school districts to improve the education of their students. These federal grants support such laudable goals as the professional development of teachers, the incorporation of technology into the classroom, gifted and talented programs, and class size reduction. Schools receive categorical grants, each with its own authorized activities and regulations, each with its own red tape and paperwork. Unfortunately, as valuable as these programs may be for many large urban and suburban school districts, they often do not work well in rural areas for two major reasons.

First, formula grants often do not reach small, rural schools in amounts sufficient to achieve the goals of the programs. These grants are based on school district enrollment, and, therefore, smaller districts often do not re-

ceive enough funding from any single grant to carry out a meaningful activity. One Main district, for example, received a whopping \$28 to fund a district-wide Safe and Drug-free School program. This amount is certainly not sufficient to achieve the goal of that federal program, yet the school district could not use the funds for any other program.

To give school districts more flexibility to meet local needs, our legislation would allow rural districts to combine the funds from four categorical programs and use them to address the school district's highest priorities.

The second problem facing many rural school districts is that they are essentially shut out of the competitive programs because they lack the grantwriters and administrators necessary to apply for, win, and manage competitively awarded grants. The Rural Education Improvement Act would remedy this program by providing small, rural districts with a formula grant in lieu of eligibility for the competitive programs of the ESEA.

A district would be able to combine this new supplemental grant with the funds from the formula grants and use the combined monies for any purposes that would improve student achievement or teaching quality. Districts might use these funds to hire a new reading or math teacher, fund professional development, offer a program for gifted and talented students, or purchase computers or library books.

Let me give you a specific example of what these two initiatives would mean for one school Maine School District in Northern Maine with 400 students from the towns of Frenchville and St. Agatha receives four separate formula grants ranging from \$1,904 for Safe and Drug Free Schools to \$9,542 under the Class Size Reduction Act. You can see the problem right there. The amounts of the grants are so small that they really are not useful in accomplishing the goals of the program. The total for all four programs is just under \$16,000. Yet, each must be applied for separately, used for different—federally mandated—purposes, and accounted for independently.

Superintendent Jerry White told me that he needs to submit eight separate reports, for four programs, to receive this \$16,000. Under our bill, this school district would be freed from the multiple applications and reports and would have \$16,000 to use for its educational priorities.

Moreover, since this district does not have the resources to apply for the competitive grant programs, our legislation would result in a supplemental grant of \$34,000 as long as the District foregoes its eligibility for the competitively awarded grants. Under the Rural Education Improvement Act, therefore, the District will have \$50,000 and the flexibility to use these funds for its most pressing needs.

But with this flexibility and additional funding come responsibility and

accountability. In return for the advantages our bill provides, participating districts would be held accountable for demonstrating improved student performance over a 3-year period. Schools will be held responsible for what is really important—improved student achievement—rather than for time-consuming paperwork. As Superintendent White told me, "Give me the resources I need plus the flexibility to use them, and I am happy to be held accountable for improved student performance. It will happen."

Mr. President, we must improve our educational system without requiring every school to adopt a plan designed in Washington and without imposing overly burdensome and costly regulations in return for federal assistance. Our bill would allow small, rural districts to use their own strategies for improvement without the encumbrance of onerous federal regulations and unnecessary paperwork.

Congress took an important step last year by recognizing that small, rural districts face challenges in using federal programs to help provide a quality education for their students. Due to our efforts last year, the law now reflects Congress's intention to provide these districts more flexibility and additional funding. This legislation will move us from intention to implementation by providing sustained support, flexibility, and funding for our rural schools.

I am pleased that this legislation has been endorsed by the American Association of School Administrators, National Rural Education Association, the Association of Educational Service Agencies, and the National Education Association, and I ask unanimous consent that endorsement letters be printed in the RECORD.

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

NATIONAL RURAL  
EDUCATION ASSOCIATION,  
Arlington, VA, February 5, 2001.

Senator SUSAN COLLINS,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR COLLINS: The National Rural Education Association would like to applaud your recognition of the unique hardships that face small, rural schools in respect to their federal funding. Along with U.S. Senators Kent Conrad, D-ND; Judd Gregg, R-NH; Conrad Burns, R-MT; Chuck Hagel, R-NE; Michael Enzi, R-WY; Pat Roberts, R-KS; and Tim Johnson, D-SD; and Byron Dorgan, D-ND, you have reintroduced legislation that would ensure that small rural schools get a baseline amount of federal funding.

Currently, many small and rural schools are at a disadvantage when they receive their ESEA funding. Federal funding formulas are based on enrollment, which prevent small schools from receiving adequate resources. Due to the small numbers of students, these schools rarely receive enough combined funds to hire a teacher. Small schools also lack the administrative capacity to apply for competitive grants. This puts small rural schools on unequal federal footing with many of their urban and suburban counterparts.

Last December, your Rural Education Initiative was included in the omnibus appropriations bill. The new law allows districts to commingle some of the federal funds they receive and use them in areas to improve student achievement and professional development. In addition, it included legislation that would provide a minimum of \$20,000 to schools of 600 or less. These are the same schools are typically receiving approximately \$5,000 from the federal government.

By setting a baseline amount and allowing schools to commingle the funds, the local school district will have the opportunity to hire a specialist, provide signing bonuses to teachers, extend after school opportunities and enhance many other aspects of the small school budget. Most of all, it would enable the school to provide an education consistent with local needs.

Once again, we would like to extend our grateful thanks for your leadership on this issue. We urge the full Senate to reauthorize and fully fund this legislation on behalf of those schools who are too small to be heard.

Sincerely,

MARY CONK,  
*Legislative Analyst.*

AMERICAN ASSOCIATION  
OF SCHOOL ADMINISTRATORS,  
*Arlington, VA, February 5, 2001.*

Hon. SUSAN COLLINS,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the American Association of School Administrators, representing more than 14,000 school system leaders, we would like to express our support for your bill reauthorizing the Rural Education Initiative. Your hard work and commitment to rural schools last congress improved federal education programs for all of the small isolated schools throughout rural America. The changes proposed in your reauthorization bill would improve upon last year's effort by providing more flexibility and increased funding for small isolated schools. Thank you for your continuing advocacy on behalf of rural schoolchildren and rural communities.

Currently small and rural school districts find it difficult to compete with larger districts for hundreds of millions of dollars in federal education competitive grants. Small, isolated districts receive well below their share of competitive grants, usually because they lack the administrative staff to apply for grants. The problem is compounded by shortcomings of federal formula programs. Federal education programs allocate funds based on enrollment, typically providing very little revenue to the smallest schools. The Collins-Conrad Rural Education Initiative would level the playing field by ensuring that each small district receives at least enough funding to hire a teacher or a specialist.

Studies in individual states and the National Assessment of Educational Progress document the difficulties of small, rural school districts:

Difficulty attracting and retaining quality teachers, and administrators,

Inability to offer advanced academic or vocational courses,

Disproportionate spending on transportation,

Loss of a sense of community when schools are consolidated, and

Inability to process all the federally required paperwork normally required of recipients.

The Rural Education Initiative would help small/rural districts by providing enough school improvements funds to implement real change. Rural and small school districts would be eligible for grants of \$20,000 to

\$60,000 depending upon enrollment. Although the program was passed into law last year, it has not yet been funded. More than 4,000 small and rural school districts benefit from the flexibility provided in last year's program; those same 4,000 districts will be able to advance even greater improvements when the program is reauthorized and appropriated.

The funds would be used to enhance the reading and math proficiency of students; to provide an education consistent with local needs; and to enable small/rural communities to prepare young people to compete in the emerging knowledge-based economy.

The Association is grateful to you, Kent Conrad, R-ND; Judd Gregg, R-NH; Conrad Burns, R-MT; Chuck Hagel, R-NE; Michael Enzi, R-WY; Pat Roberts, R-KS; Tim Johnson, D-SD; and Byron Dorgan, D-ND for their advocacy on behalf of rural school children. We urge the full Senate to embrace and fund this important legislation.

Sincerely,

JORDAN CROSS,  
*Legislative Specialist.*

ASSOCIATION OF  
EDUCATIONAL SERVICE AGENCIES,  
*Arlington, VA, February 5, 2001.*

Hon. SUSAN COLLINS,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the Association of Education Service Agencies, we would like to express our gratitude for your work on the Rural Education Initiative. Your efforts during the 106th Congress helped rectify many of the inequalities that disadvantage small school districts. By increasing the flexibility of federal education programs, local districts can now make better use of federal dollars. This year, you have taken that effort one step further with the reauthorization of the Rural Education Initiative. The Collins-Conrad reauthorization proposal would complete last year's goal by ensuring that small rural schools are treated fairly by federal formula programs and funded at an adequate level.

Educational Service Agencies (ESAs) are intermediate units that frequently provide assistance to small and rural schools that do not have the administrative staff to operate some education programs in-house. When a small rural school district receives a tiny federal education, ESAs often facilitate consortia to make better use of federal funds. ESAs are the primary source of professional development and technology assistance to rural schools. The members of our association understand first-hand the particular needs of rural districts; your proposal offers the best hope for accommodating those needs and the best means for improving rural education.

Rural schoolchildren deserve to benefit from the federal education programs enjoyed by urban and suburban students. We thank you for your work on the Rural Education Initiative, and we offer our full support.

Sincerely,

BRUCE HUNTER,  
*Legislative Specialist.*

NATIONAL EDUCATION ASSOCIATION,  
*Washington, DC, January 31, 2001.*

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION IN SUPPORT OF THE RURAL EDUCATION INITIATIVE

The National Education Association's (NEA) supports the concepts included in the Rural Education Initiative (REI), introduced today in the United States Senate by Senators Collins and Conrad.

NEA research demonstrates the need for increased emphasis on meeting the needs of

rural schools. For example, 49 percent of the nation's public schools, teaching 40 percent of the nation's students, are located in rural areas and small towns. Yet, schools in rural and small towns receive only 22 percent of total federal, state, and local education spending. In addition, federal funding formulas often provide rural and small towns with small allotments that afford little or no actual assistance but require significant paperwork.

The Rural Education Initiative represents an important step toward addressing the unique problems associated with education in small towns and rural areas. We encourage its passage into law.

Mr. CONRAD. Mr. President, I am very pleased to join my distinguished colleagues, Senator SUSAN COLLINS and Senator JUDD GREGG, to introduce the Rural Education Initiative (REI). We introduced similar legislation, S. 1225, during the 106th Congress to respond to a number of challenges facing small, rural schools, and I am pleased that we were successful in incorporating some of the major the provisions of S. 1225 in the FY 2001 Omnibus Appropriations bill. This Congressional action will provide flexibility for school officials from small, rural schools to make better use of Federal education funds for critical educational needs at the local level.

Under Public law 106-1033, Congress authorized school districts with fewer than 600 students, and a Department of Education (DOE) Locale Code designation of 7 or 8 to combine funding from four Federal education programs (Titles, II, IV, VI and Class Size Reduction) and use that funding to supplement Federal education programs under Titles I, II, IV, and VI. Congress also authorized, although was not able to fund, supplemental grants of up to \$60,000 to assist small, rural school districts develop programs to improve academic achievement and the quality of instruction. Funding the supplemental grants program in the Rural Education Initiative is a major priority during consideration of the Elementary and Secondary Reauthorization in the 107th Congress.

Today, we are re-introducing legislation to extend the authority under the Rural Education Initiative in P.L. 106-1033 for a five-year period to permit small, rural school districts to continue to have flexibility in the use of funds from a limited number of Federal education programs. This bill will also authorize \$150 million for supplemental grants of up to \$60,000 to rural schools to improve student achievement, provide professional development opportunities for educators or undertake education reform activities. School districts with fewer than 600 students and with a DOE Locale Code of 7 or 8 will be eligible to participate in the REI program.

I am particularly pleased that the Rural Education Initiative has received bipartisan support and is cosponsored today by Senators COLLINS, GREGG, HAGEL, ENZI, HUTCHINSON, DORGAN, ROBERTS, BURNS, JOHNSON, and THOMAS. The Rural Education Initiative is

also being endorsed by the American Association of School Administrators, the National Education Association, the National Rural Education Association, and the Association of Educational Service Agencies.

Mr. President, small rural schools face a growing number of unique challenges because of declining school age populations, aging facilities, and significant distances and remote locations for many rural school districts. While increased Federal education funding and targeting of these funds has been very helpful for rural school districts, these efforts alone are not responding sufficiently to the needs of many small, rural schools.

Many rural schools, for example, while recognizing the importance of new initiatives like Class Size Reduction, are already at the levels recommended under the Class Size Reduction Initiative. Under current law, rural schools have only limited flexibility to use Class Size funds to meet other local education priorities. In many instances, the Class Size funds and allocations from a number of other Federal formula programs are not sufficient to permit effective use of the funds by the rural district.

Additionally, although rural schools are able to apply for DOE competitive grant programs, rural schools are not able to compete as effectively as some urban and suburban schools because limited resources do not permit many smaller, rural districts to hire specialists to prepare grant applications to compete for these funds. In some cases, the only option for a smaller district is to form a consortium with other schools to qualify for sufficient funding.

The difficulties accessing DOE competitive grant funds by rural schools are summed up well by Elroy Burkle, Superintendent of the Starkweather Public School District, a district with 131 students. Burkle remarked, "schools districts have lost their ability to access funds directly, and as a result of forming these consortiums in order to access these monies, it is my opinion, we have lost our individual ability to utilize these monies in an effective manner that would be conducive to promoting the educational needs of our individual schools."

Mr. President, the Rural Education Initiative responds to many of the concerns of Elroy Burkle and thousands of other school officials from smaller, rural school districts. The REI authorizes flexibility for local schools officials to more effectively use certain DOE formula funds. The legislation also authorizes supplemental grant funding for rural school districts who are not in a position to apply for some DOE competitive grant programs and in need additional funds for programs to improve student achievement or provide professional development opportunities for educators.

As we begin our debate in the 107th Congress on the education proposals re-

cently presented by President Bush and reauthorization of the Elementary and Secondary Education Act, it's very important that we consider the Rural Education Initiative as part of this debate. No issue is more important for rural America than the future of our schools. We must make certain that Federal education dollars are available to assist small, rural schools to provide the best education opportunities for children in rural America.

I commend Senator COLLINS for taking the lead again in the 107th Congress on this important education issue. I also congratulate the American Association of School Administrators and the National Education Association for their leadership on rural education issues and the development of this important rural education initiative. I strongly urge the Committee on Health, Education, Labor, and Pensions to carefully examine the many concerns of schools in rural America and to support reauthorization of the Rural Education Initiative that was adopted during the 106th Congress.

Mr. President, I ask unanimous consent that the endorsements of the Rural Education Initiative from the American Association of School Administrators, the National Education Association, the National Rural Education Association, and the Association of Educational Service Agencies be printed in the RECORD at the conclusion of my remarks.

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

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION IN SUPPORT OF THE RURAL EDUCATION INITIATIVE

The National Education Association's (NEA) supports the concepts included in the Rural Education Initiative (REI), introduced today in the United States Senate by Senators Collins and Conrad.

NEA research demonstrates the need for increased emphasis on meeting the needs of rural schools. For example, 49 percent of the nation's public schools, teaching 40 percent of the nation's students, are located in rural areas and small towns. Yet, schools in rural and small towns receive only 22 percent of total federal, state, and local education spending. In addition, federal funding formulas often provide rural and small towns with small allotments that afford little or no actual assistance but require significant paperwork.

The Rural Education Initiative represents an important step toward addressing the unique problems associated with education in small towns and rural areas. We encourage its passage into law.

AMERICAN ASSOCIATION OF  
SCHOOL ADMINISTRATORS,  
Arlington, VA, February 5, 2001.

Hon. KENT CONRAD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR CONRAD: On behalf of the American Association of School Administrators, representing more than 14,000 school system leaders, we would like to express our support for your bill reauthorizing the Rural Education Initiative. Your hard work and commitment to rural schools last congress improved federal education programs for all

of the small isolated schools throughout rural America. The changes proposed in your reauthorization bill would improve upon last year's effort by providing more flexibility and increased funding for small isolated schools. Thank you for your continuing advocacy on behalf of rural schoolchildren and rural communities.

Currently small and rural school districts find it difficult to compete with larger districts for hundreds of millions of dollars in federal education competitive grants. Small, isolated districts receive well below their share of competitive grants, usually because they lack the administrative staff to apply for grants. The problem is compounded by shortcomings of federal formula programs. Federal education programs allocate funds based on enrollment, typically providing very little revenue to the smallest schools. The Collins-Conrad Rural Education Initiative would level the playing field by ensuring that each small district receives at least enough funding to hire a teacher or a specialist.

Studies in individual states and the National Assessment of Educational Progress document the difficulties of small, rural school districts: Difficulty attracting and retaining quality teachers, and administrators, inability to offer advanced academic or vocational courses, disproportionate spending on transportation, loss of a sense of community when schools are consolidated, and inability to process all the federally required paperwork normally required of recipients.

The Rural Education Initiative would help small/rural districts by providing enough school improvement funds to implement real change. Rural and small school districts would be eligible for grants of \$20,000 to \$60,000 depending upon enrollment. Although the program was passed into law last year, it has not yet been funded. More than 4,000 small and rural school districts benefit from the flexibility provided in last year's program; those same 4,000 districts will be able to advance even greater improvements when the program is reauthorized and appropriated.

The funds would be used to enhance the reading and math proficiency of students; to provide an education consistent with local needs; and to enable small/rural communities to prepare young people to compete in the emerging knowledge-based economy.

The Association is grateful to you, Susan Collins, R-ME; Judd Gregg, R-NH; Conrad Burns, R-MT; Chuck Hagel, R-NE; Michael Enzi, R-WY; Pat Roberts, R-KS; Tim Johnson, D-SD; and Byron Dorgan, D-ND for their advocacy on behalf of rural school children. We urge the full Senate to embrace and fund this important legislation.

Sincerely,

JORDAN CROSS,  
Legislative Specialist.

NATIONAL RURAL EDUCATION  
ASSOCIATION,  
Arlington, VA, February 5, 2001.

Senator KENT CONRAD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR CONRAD: The National Rural Education Association would like to applaud our recognition of the unique hardships that face small, rural schools in respect to their federal funding. Along with U.S. Senators Kent Conrad, D-ND; Judd Gregg, R-NH; Conrad Burns, R-MT; Chuck Hagel, R-NE; Michael Enzi, R-WY; Pat Roberts, R-RS; and Tim Johnson, D-SD; and Byron Dorgan, D-ND, you have reintroduced legislation that would ensure that small rural schools get a baseline amount of federal funding.

Currently, many small and rural schools are at a disadvantage when they receive

their ESEA funding. Federal funding formulas are based on enrollment, which prevent small schools from receiving adequate resources. Due to the small numbers of students, these schools rarely receive enough combined funds to hire a teacher. Small schools also lack the administrative capacity to apply for competitive grants. This puts small rural schools on unequal federal footing with many of their urban and suburban counterparts.

Last December, your Rural Education Initiative was included in the omnibus appropriations bill. The new law allows districts to commingle some of the federal funds they receive and use them in areas to improve student achievement and professional development. In addition, it included legislation that would provide a minimum of \$20,000 to schools of 600 or less. These are the same schools typically receiving approximately \$5,000 from the federal government.

By setting a baseline amount and allowing schools to commingle the funds, the local school district will have the opportunity to hire a specialist, provide a signing bonus to teachers, extend after school opportunities and enhance many other aspects of the small school budget. Most of all, it would enable the school to provide an education consistent with local needs.

Once again, we would like to extend our grateful thanks for your leadership on this issue. We urge the full Senate to reauthorize and fully fund this legislation on behalf of those schools who are too small to be heard.

Sincerely,

MARY CONK,  
*Legislative Analyst.*

ASSOCIATION OF  
EDUCATIONAL SERVICE AGENCIES,  
*Arlington, VA, February 5, 2001.*

Hon. KENT CONRAD,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR CONRAD: On behalf of the Association of Education Service Agencies, we would like to express our gratitude for your work on the Rural Education Initiative. Your efforts during the 106th Congress helped rectify many of the inequalities that disadvantage small school districts. By increasing the flexibility of federal education programs, local districts can now make better use of federal dollars. This year, you have taken that effort one step further with the reauthorization of the Rural Education Initiative. The Collins-Conrad reauthorization proposal would complete last year's goal by ensuring that small rural schools are treated fairly by federal formula programs and funded at an adequate level.

Educational Service Agencies (ESAs) are intermediate units that frequently provide assistance to small and rural schools that do not have the administrative staff to operate some education programs in-house. When a small rural school district receives a tiny federal education, ESAs often facilitate consortia to make better use of federal funds. ESAs are the primary source of professional development and technology assistance to rural schools. The members of our association understand first-hand the particular needs of rural districts; your proposal offers the best hope for accommodating those needs and the best means for improving rural education.

Rural schoolchildren deserve to benefit from the federal education programs enjoyed by urban and suburban students. We thank you for your work on the Rural Education Initiative, and we offer our full support.

Sincerely,

BRUCE HUNTER,  
*Legislative Specialist.*

Mr. ROBERTS. Mr. President, Today I rise in support of the Rural Education

Initiative introduced by Senator COLLINS. I am also pleased to join my other colleagues from the Health Education Labor and Pensions Committee in support of this bill. In a time when the education of our nation's youth is a priority, we need to make sure that all schools have the opportunity to improve and reform. This legislation does just that.

The Rural Education Initiative Act will allow small rural schools to make better use of federal education dollars. In Kansas, 46 percent of our school districts have fewer than 600 students. In Utica, Kansas, in the Nes Tre La Go Unified School District number 301, there are 34 elementary students and 39 high school students that make up the entire enrollment. Districts like these in Kansas and other rural areas face multiple obstacles when obtaining and utilizing federal funds.

First, they seldom receive enough money from any single grant to make a lasting and measurable impact on school improvement. Grants are based on school enrollment and the funds doled out to these small districts are rarely enough. This bill would allow the merging of splintered federal funds so that grant money can be used effectively to meet local education priorities. District are granted the freedom to spend the funds as they see fit.

Second, small rural districts do not have the manpower to apply for competitive grants. This bill provides a formula grant as an option instead of limiting districts to the lengthy and involved application process for ESEA competitive grant programs. Under this formula, districts don't have to strain their resources simply applying for federal funds.

With this reform and flexibility there will be accountability. Districts will be required to demonstrate improved student performance using tests they already administer to assess student achievement.

This bill abolishes undue obstacles rural districts face as they try to improve the quality of education in their own schools. I urge my colleagues to support this common sense legislation and allow small rural districts to obtain federal funds and use them to meet their own objectives.

Mr. THOMAS. Mr. President, I would like to take this opportunity to express my support for Senator COLLINS' Rural Education Improvement Act, a bill that would allow school districts in my state and across the nation to more fully benefit from the use of federal grant monies. In current formula-based federal grants, some of the amounts rural districts receive are so small the school districts an not do anything meaningful with them. This "One-size-fits-all" policy would be remedied under the "Rural Education Improvement Act," which would allow several small sums to be joined and spent according to local needs. Like Senator COLLINS, I'm committed to giving parents and local school districts more say

in how their education dollars are spent. I commend the Senator for her efforts in this area and am proud to co-sponsor this legislation.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 254. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise today to introduce the Little Sandy Watershed Protection Act.

I promised Oregonians that one of my first legislative actions when the 107th Congress convened would be the introduction of this bill.

Therefore, joined by my friends Senator GORDON SMITH and Congressman EARL BLUMENAUER, I introduce this legislation to make sure that Portland families can go to their kitchen faucets and get a glass of safe and pure drinking water today, tomorrow, and on, into the 21st century.

The Bull Run has been the primary source of water for Portland since 1895. The Bull Run Watershed Management Unit, Mount Hood National Forest, was protected by Congressional action in 1904, in 1977 and then again, most recently, in 1996 (P.L. 95-200, 16, U.S.C. 482b note) because it was recognized as Portland's primary municipal water supply. It still is.

Today I propose to finish the job of the Oregon Resources and Conservation Act of 1996. That law, which I worked on with former Senator Mark Hatfield, finally provided full protection to the Bull Run watershed, but only gave temporary protection to the adjacent Little Sandy watershed. I promised in 1996 that I would return to finish the job of protecting Portland's drinking water supply, and I intend to continue to push this legislation until the job is completed.

The bill I introduce today expands the Bull Run Watershed Management Unit boundary from approximately 95,382 acres to approximately 98,272 acres by adding the southern portion of the Little Sandy River watershed, an increase of approximately 2,890 acres.

The protection this bill offers will not only assure clean drinking water, but also increase the potential for fish recovery. Reclaiming suitable habitat for our region's threatened fish populations must be an all-out effort. Through the cooperation of Portland General Electric and the City of Portland, the Little Sandy can be an important part of that effort.

The bill I introduce today is a compromise that was passed unanimously by the Senate during the last days of the 106th Congress. Unfortunately, the U.S. House of Representatives of the 106th Congress refused to pass this important, noncontroversial, piece of legislation before the final bells rang.

My belief is that the children of the 21st century deserve water that is as



safe and pure as any that the Oregon pioneers found in the 19th century. This legislation will go a long way toward bringing about that vision.

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

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

S. 254

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

**SECTION 1. INCLUSION OF ADDITIONAL PORTION OF THE LITTLE SANDY RIVER WATERSHED IN THE BULL RUN WATERSHED MANAGEMENT UNIT, OREGON.**

(a) IN GENERAL.—Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking section 1 and inserting the following:

**“SECTION 1. ESTABLISHMENT OF SPECIAL RESOURCES MANAGEMENT UNIT; DEFINITION OF SECRETARY.**

“(a) DEFINITION OF SECRETARY.—In this Act, the term ‘Secretary’ means—

“(1) with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and

“(2) with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled ‘Bull Run Watershed Management Unit’.

“(2) MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of—

“(A) the Regional Forester-Pacific Northwest Region of the Forest Service; and

“(B) the Oregon State Director of the Bureau of Land Management.

“(3) BOUNDARY ADJUSTMENTS.—The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.”.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECRETARY.—Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking “Secretary of Agriculture” each place it appears (except subsection (b) of section 1, as added by subsection (a), and except in the amendments made by paragraph (2)) and inserting “Secretary”.

(2) APPLICABLE LAW.—

(A) IN GENERAL.—Section 2(a) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking “applicable to National Forest System lands” and inserting “applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior)”.

(B) MANAGEMENT PLANS.—The first sentence of section 2(c) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended—

(i) by striking “subsection (a) and (b)” and inserting “subsections (a) and (b)”;

(ii) by striking “, through the maintenance” and inserting “(in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) (in the case of land administered

by the Secretary of the Interior), through the maintenance”.

**SEC. 2. MANAGEMENT.**

(a) TIMBER CUTTING RESTRICTIONS.—Section 2(b) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.”.

(b) REPEAL OF MANAGEMENT EXCEPTION.—The Oregon Resource Conservation Act of 1996 (division B of Public Law 104-208) is amended by striking section 606 (110 Stat. 3009-543).

(c) REPEAL OF DUPLICATIVE ENACTMENT.—Section 1026 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4228) and the amendments made by that section are repealed.

(d) WATER RIGHTS.—Nothing in this section strengthens, diminishes, or has any other effect on water rights held by any person or entity.

**SEC. 3. LAND RECLASSIFICATION.**

(a) OREGON AND CALIFORNIA RAILROAD LAND.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall identify any Oregon and California Railroad land that is subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f), within the boundary of the special resources management area described in section 1 of Public Law 95-200 (as amended by section 1(a)).

(b) PUBLIC DOMAIN LAND.—

(1) DEFINITION OF PUBLIC DOMAIN LAND.—

(A) IN GENERAL.—In this subsection, the term “public domain land” has the meaning given the term “public land” in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) EXCLUSION.—The term “public domain land” does not include any land managed under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) IDENTIFICATION.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall identify public domain land within the Medford, Roseburg, Eugene, Salem, and Coos Bay Districts and the Klamath Resource Area of the Lakeview District of the Bureau of Land Management in the State of Oregon that—

(A) is approximately equal in acreage and condition as the land identified in subsection (a); but

(B) is not subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(c) MAPS.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress and publish in the Federal Register 1 or more maps depicting the land identified in subsections (a) and (b).

(d) RECLASSIFICATION.—After providing an opportunity for public comment, the Secretary of the Interior shall administratively reclassify—

(1) the land described in subsection (a), as public domain land (as the term is defined in subsection (b)) that is not subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f); and

(2) the land described in subsection (b), as Oregon and California Railroad land that is subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

**SEC. 4. FUNDING FOR ENVIRONMENTAL RESTORATION.**

There is authorized to be appropriated to carry out, in accordance with section 323 of the Department of the Interior and Related

Agencies Appropriations Act, 1999 (16 U.S.C. 1101 note; 112 Stat. 2681-290), watershed restoration that protects or enhances water quality, or relates to the recovery of endangered species or threatened species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), in Clackamas County, Oregon, \$10,000,000.

By Ms. SNOWE (for herself, Mrs. MURRAY, and Mr. JOHNSON):

S. 255. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce the Women's Health and Cancer Rights Act. I am pleased to be joined by my friends, Senator MURRAY of Washington and Senator JOHNSON of South Dakota, as original cosponsors of this bill.

This bill has a two-fold purpose. First, it will ensure that appropriate medical care determines how long a woman stays in the hospital after undergoing a mastectomy. This provision says that inpatient coverage with respect to the treatment of mastectomy—regardless of whether the patient's plan is regulated by ERISA or State regulations—will be provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate. Second, this bill allows any person facing a cancer diagnosis of any type to get a second opinion on their course of treatment.

A diagnosis of breast cancer is something that every woman dreads. But for an estimated 192,200 American women, this is the year their worst fears will be realized. One thousand new cases of breast cancer will be diagnosed among the women in Maine, and 200 women in my home State will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and 54, there is no other disease which will claim more lives.

It's not hard to understand why the words “you have breast cancer” are some of the most frightening words in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. Despite the medical and scientific advances that have been made, despite the advances in early detection technology that more and more often negate the need for radical surgery, it still remains a fact of life at the beginning of the 21st century these procedures can be the most prudent option in attacking and eradicating cancer found in a woman's breast.

These are the kind of decisions that come with a breast cancer diagnosis. These are the kind of questions women must answer, and they must do so under some of the most stressful and frightening circumstances imaginable. The last question a woman should have to worry about at a time like this is whether or not their health insurance plan will pay for appropriate care after a mastectomy. A woman diagnosed with breast cancer in many ways already feels as though she has lost control of her life. She should not feel as though she has also lost control of her course of treatment.

The evidence for the need for this bill—especially when it comes to so-called “drive through mastectomies”, is more than just allegorical. Indeed, the facts speak for themselves—between 1986 and 1995, the average length of stay for a mastectomy dropped from about six days to about 2 to 3 days. Thousands of women across the country are undergoing radical mastectomies on an outpatient basis and are being forced out of the hospital before either they or their doctor think it's reasonable or prudent.

This decision must be returned to physicians and their patients, and all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate and necessary medical care.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

By Ms. SNOWE:

S. 256. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce a bill that is very important to working women and their families—the Pregnancy Discrimination Act Amendments of 2001. This bill would clarify that the Pregnancy Discrimination Act protects breastfeeding under civil rights law, requiring that a woman cannot be fired or discriminated against in the workplace for expressing breast milk during her own lunch time or break time.

According to the U.S. Department of Labor, women with infants and toddlers are the fastest growing segment of today's labor force. At least 50 percent of women who are employed when they become pregnant return to the labor force by the time their children are three months old. Although the Pregnancy Discrimination Act was enacted in 1978 and prohibits workplace discrimination on the basis of pregnancy, childbirth, or related medical conditions, courts have not interpreted the Act to include breastfeeding.

Some employers deny women the opportunity to express milk . . . some women have been discharged for requesting to express milk during lunch and other regular breaks . . . some women have been harassed or discrimi-

nated against; some women have had their pay withheld or been taken off of shift work for saying that they wanted to pump milk.

On the other hand, many employers have seen positive results from facilitating lactation programs in the workplace, including low absenteeism, high productivity, improved company loyalty, high employee morale, and lower health care costs. Parental absenteeism due to infant illness is three times greater among the parents of formula-fed children than those that are breastfed. Worksite programs that aim to improve infant health may also bring about a reduction in parental absenteeism and health insurance costs.

There is no doubt as to the health benefit breastfeeding brings to both mothers and children. Breastmilk is easily digested and assimilated, and contains all the vitamins, minerals, and nutrients they require in their first five to six months of life. Furthermore, important antibodies, proteins, immune cells, and growth factors that can only be found in breast milk. Breastmilk is the first line of immunization defense and enhances the effectiveness of vaccines given to infants.

Research studies show that children who are not breastfed have higher rates of mortality, meningitis, some types of cancers, asthma and other respiratory illnesses, bacterial and viral infections, diarrhoeal diseases, ear infections, allergies, and obesity. Other research studies have shown that breastmilk and breastfeeding have protective effects against the development of a number of chronic diseases, including juvenile diabetes, lymphomas, Crohn's disease, celiac disease, some chronic liver diseases, and ulcerative colitis. A number of studies have shown that breastfed children have higher IQs at all ages.

This is a simple bill—it simply inserts the word “breastfeeding” in the Pregnancy Discrimination Act. It will change the law to read that employment discrimination “because of or on the basis of pregnancy, childbirth, breastfeeding, or related medication conditions” is not permitted.

I believe that it is absolutely critical to support mothers in across the country—they are, of course, raising the very future of our country. And we should ensure that the Pregnancy Discrimination Act covers this basic fundamental part of mothering.

I urge my colleagues to join me in supporting this bill.

By Ms. SNOWE:

S. 257. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Improved Patient Access to Clinical Studies Act. This bill builds on progress made in the last several years in the difficult and

challenging fight against life-threatening diseases.

This bill will prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

This bill has a two-fold purpose. First, it will ensure that many patients who could benefit from these potentially life-saving experimental treatments, but currently do not have access to them because their insurance will not cover the associated costs. Second, without reimbursement for these services, our researchers' ability to conduct important research is impeded as it reduces the number of patients who seek to participate in clinical trials.

According to a report published by the General Accounting Office in September 1999, “given the uncertainty about [health insurance] approval and payment levels, patients and physicians can be discouraged from seeking prior approval from insurers” and therefore, will not attempt to enroll in what could possibly be the patients' last hope. When faced with a life-threatening disease, such as cancer, it is absolutely paramount that individuals be given every opportunity, every possibly imaginable, to fight their illness. What patients should not be faced with is the certainty of a health insurance fight.

I hope my colleagues will join me in supporting this bill which will help those suffering from life-threatening diseases and their families.

By Ms. SNOWE (for herself and Mrs. LINCOLN):

S. 258. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of annual screening pap smear and screening pelvic exams; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Providing Annual Pap Tests to Save Women's Lives Act of 2001. I am pleased to be joined by my friend, Senator LINCOLN of Arkansas, as an original cosponsor of this bill.

According to the American Cancer Society cervical cancer is one of the most successfully treatable cancers when detected at an early stage. In fact, 88 percent of cervical cancer patients survive one year after diagnosis, and 70 percent survive five years.

In the 52 years since use of the pap test became widespread, the cervical cancer mortality rate has declined by an astonishing 70 percent. There is no question that this test is the most effective cancer screening tool yet developed. The Pap smear can detect abnormalities before they develop into cancer. Having an annual Pap smear is one of the most important things a woman can do to help prevent cervical cancer.

Congress has recognized the incomparable contribution of the Pap smear in preventing cervical cancer and nine years ago directed Medicare to begin covering preventive Pap smears. Under this law Medicare beneficiaries were eligible for one test every three years, although a more frequent interval is allowed for women at high risk of developing cervical cancer. And through the Balanced Budget Act of 1997, Congress expanded the Pap smear benefit to also include a screening pelvic exam once every three years. Last year as a part of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act, P.L. 106-544, we brought the screening down to once every other year.

However, the American Cancer Society screening guidelines recommend that all women who are or have been sexually active or who are 18 and older should have an annual Pap test and pelvic examination. After three or more consecutive satisfactory examinations with normal findings, the Pap test may be performed less frequently at the physician's discretion. Unfortunately, Medicare guidelines do not reflect this recommendation.

Women understand the usefulness and life-saving benefit of the Pap smear. The U.S. Centers for Disease Control and Prevention reported that 88.3 percent of women between the ages of 18 and 44 have received a pap test within the preceding three years. However, this rate dropped, for women age 65 and over—only 72.3 percent have received a pap test within the preceding three years.

The bill Senator LINCOLN and I are introducing today will bring Medicare guidelines in line with the American Cancer recommendations, and it will encourage Medicare beneficiaries to utilize this screening benefit more regularly.

The Pap test has contributed immeasurably to the fight against cervical cancer. We cannot risk erasing our advancements in this fight because of an inadequate Medicare screening benefit.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. MURRAY):

S. 259. A bill to authorize funding the Department of Energy to enhance its mission areas through Technology Transfer and Partnerships for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for technology transfer. This bi-partisan bill which is referred to as the "National Laboratories Partnership Improvement Act of 2001" is co-sponsored by my colleagues Mr. DOMENICI and Mrs. MURRAY. Let me summarize this bill. First, I will outline the Department's commitment to science and how it has admirably worked to transfer its

technology in light of a serious resource decline. I then will discuss how tech transfer naturally complements the Department's mission oriented R&D. I will review the legislation we introduced in the last session which is a start in the right direction. I will conclude by proposing how this bill by leveraging existing efforts, should move the Department in the right direction to support technology transfer without disrupting its R&D mission focus.

The Department of Energy is about science. For FY 2001, the Department's R&D budget was roughly \$8 billion out of the \$18.3 billion appropriated. Science programs account for 43 percent of the Department's budget. In the area of the physical sciences, DOE provides roughly half of all of the federal R&D. In mathematics and computer sciences, DOE is second after the DOD. In engineering, the DOE ranks third after NASA and the DOD. DOE affiliated scientists have won more than 71 Nobel prizes for fundamental research; they garner the largest number of R&D 100 awards for applied research. The Department has more than 60 multipurpose laboratories and primary purpose facilities across the U.S. in high energy physics, materials science, nuclear science and engineering, waste management, biosciences, robotics, advanced scientific computing, micro-electronic and nanomaterials fabrication. Each year DOE labs and facilities are used by more than 18,000 researchers from universities and industry.

Yet with this surprising portfolio of research, the Department in FY 2001 only line allocates \$10 million for the transfer of technology. In 1995 this allocation was over \$200 million. That is not to say DOE is not transferring its technology. In FY 1998, which is our last set of good statistics from the Department of Commerce's Office of Technology Policy, the DOE was second only to the DOD in the number of CRADA's granted from its federal facilities, the DOD had 1424 and the DOE had 868. The in-kind funds from industry to DOE for these CRADA's averages about \$100 million while its work for others from non-federal sources was \$145 million. In FY 1998, the DOE had 168 licenses granted to use its technology, the DOD had 34 and HHS had 215. In FY 1998, the DOE had 512 patents issued on federal lab inventions while the DOD had 579, the next closest was HHS with 171. In FY 1998, 50 companies were established as a result of DOE technology transfer. To put these numbers in perspective, the DOD R&D budget for FY 1998 was \$37.5 billion, HHS' was \$13.8 billion, while DOE's was \$6.3 billion. These statistics are impressive because in FY 1998 the DOE had line allocated about 1 percent of its R&D budget to tech transfer. Today, that number is 0.14 percent of its R&D budget.

Given that tech transfer is not the Department's primary mission, the question is what is the right mix and

what is the optimal technology to transfer? For the NNSA, the primary mission is ensuring a safe and reliable nuclear stockpile. The Office of Science's primary mission is advancing the frontiers of basic R&D. The Office of Environmental Management's primary mission is cleaning up contaminated DOE sites. The Fossil Energy Program's mission is developing cleaner and more efficient fossil fuels. The list goes on. Nor do I think that tech transfer, given the above numbers will be the principal engine for direct economic growth in the tech heavy new economy. Let me explain this premise by examining the pattern of economic and technological growth in a little more detail. In the year 2000, the National Science Foundation estimates that total U.S. R&D was \$264 billion, a 7.9 percent increase over 1999 which itself was a 7.5 percent increase over 1998. Technology R&D has a growth rate exceeding 15 percent in the last two years alone. What counts is the make up of these R&D trends. In the year 2000, the industry contribution to the total R&D was \$179 billion, a 10.3 percent increase over 1999 while federal R&D grew by only 3.9 percent. Given the investment the federal government makes in R&D, technology transfer from federal labs does not contribute directly to these amazing growth rates. In industries like telecommunications and chip design, the turn around cycles from research to product ranges from 1 to 3 years. The government is simply too slow to contribute directly to industrial driven short term needs that are so clearly evident in these national trends of R&D funding. On the other end of the spectrum, basic and applied R&D are areas where industry finds it difficult to invest given the short term equity demands on their profits. The right mix then is for the government to maintain basic and applied R&D so it can transfer this knowledge to industry over the long term.

If we agree that the government best transfers long term R&D we must ask the next question which is how do the Department's mission focused R&D programs transfer technology to the private sector and how can the Department ensure its continued success with minimal disruption to its mission areas? Mission focused DOE programs like the NNSA, Environmental Management, Fossil Energy, Renewable Energy, Nuclear Energy and the Office of Science all advance the frontiers of science at different stages. All of these programs in carrying out their missions naturally perform different degrees of tech transfer. The Fossil Energy, Nuclear and Renewable programs work closely with industry and usually cannot start without an industry partner through a CRADA. The NNSA with their advanced computing requirements naturally push the state of the art in industry. CRADA's and Licenses provide to the NNSA a fresh influx of the outside world's advancing technology into their national security

missions. The Office of Science with their wonderful user facilities and broad basic energy research mandate provide a fertile R&D base by which industry can stay competitive ten years out into the future, CRADA's smooth and shorten that transition. CRADA arrangements are a natural outgrowth of the DOE mission programs. A CRADA or License simply makes the tech transfer process smoother. So the issue is not how much money do we need to line item for the formation of a CRADA or a license—the CRADA is simply a by product of a organic tech transfer process in the Department's R&D programs. The issue is what kind of organizational structure in the DOE do we need to keep track of these tech transfer activities and how to insure that it is easily accessible for potential partnerships.

If as I have just described that tech transfer occurs organically to the Department's R&D mission areas we need to ask ourselves is there an infrastructure that moves beyond the single contractual framework which a CRADA represents? Tech transfer is not so much a static contract but it is a multi-dimensional transactional process. In some select cases we should stimulate the transactional tech transfer process by regional technology clusters. Technology clusters will permit industry to locate around these wonderful pools of scientific knowledge. In turn they will build the R&D infrastructure surrounding the laboratory itself. We all too often think that the internet can solve the distance problem of connecting business transactions thus negating the need for regional technology clusters—that's actually wrong, very wrong. Successful utilization of R&D technology starts because many small business are nearby to each other in a supportive state business climate. The technology clusters that form simply use the internet to exchange ideas and data that they generate from face-to-face collaboration on short notice. People to people transactions initiate business and wealth in a rather spontaneous event; the internet is simply a tool to make it more efficient. You see such natural clustering occurring in Wall Street for financial markets, Palo Alto for information technology, Detroit for automobiles and right here in Bethesda for genetics around the NIH. Thus, enabling the formation technology clusters rather than focusing on the static contractual CRADA process should be the next step in the evolution of federal technology transfer.

The bill I am introducing today address the issues I have just outlined. It establishes a headquarters level Technology Transfer Coordinator as the Secretary's lead advocate for developing DOE technology transfer policy across its many missions. This Coordinator will collect and disseminate tech transfer data to Congress, the interagency and public. I have provided a ceiling limit of about \$1 million per

year to collect this data and prepare the reports as required by law. I have provided additional funding for the Coordinator to help out the administrative tasks associated with the Interlaboratory Technology Partnerships Working Group. This group is staffed by members from the DOE laboratories and facilities with the purpose to deconflict and disseminate publically DOE's R&D. The Interlaboratory Technology Partnerships Working Group is a powerful grass roots organization outside the beltway. This group operates at the local community and laboratory level where the technology initiates. I have designated the Coordinator as the Secretary's lead federal officer for the group's oversight by reporting its activities to Congress and the interagency. I have authorized about \$1 million a year to leverage the Technology Partnerships Working Group's activities by ensuring that it can develop the necessary web interfaces and databases by which the public can easily access DOE's technology. I have expanded the clustering bill that was introduced in the last Congress through the Defense Authorization Act from the NNSA laboratories to the entire DOE complex. This expansion will permit industry to benefit from the entire range of technology R&D across the DOE. If successful, these clusters will strengthen our experience in technology clusters; it will actively involve the state and local communities in encouraging the role that a technology infrastructure will have in their economic development. I have authorized \$10 million for these clusters while requiring a 50 percent in-kind funding contribution from the proposed partner. The clustering partner can be a state, university, R&D consortia or business entity. I have given the Secretary discretion to stop this clustering expansion if the pilot effort for the NNSA labs proves unworkable. I have authorized a small-business advocate, to support DOE wide, for what has been a lab by lab policy. Such a small business provision is needed to accommodate the unique needs for R&D collaboration of start up businesses. I have proposed modifying the Department of Energy Organization Act to make it more flexible in entering into alternative research contracts with entities such as R&D consortia. Finally, I have asked the Secretary to examine the need for a policy to move people across the lab fence to start up companies. This policy is balanced against the unique mission areas of each lab. In some cases implementing such a policy may prove unworkable based upon a lab's mission requirement. If such a policy proves unreasonable based upon a particular lab's mission, I have given Secretary the discretion not to implement it. I must emphasize though that half of tech transfer is not just a piece of technology moving across the fence but the movement of people and their know-how to a small start up. Universities are a

classic example of the movement of technology and people between their home institution and a small regional technology park. Everyone benefits from this flow in people, the start-up, the lab or facility with a more vibrant workforce surrounding it and the local economy through local high tech business start ups.

Mr. President, I want to emphasize that this is not another line item CRADA funding project, its not corporate welfare. This bill takes the tech transfer activities that are naturally occurring in all these varied science mission areas and leverages them with small amounts of funding—about 0.06 percent of DOE's overall budget.

Let me summarize once more what I have just outlined is in the proposed bill. First, a small Technology Transfer Coordinator is proposed to be the Secretary's advocate across the Department for uniform policy development and reporting. Second, a small web based interface is proposed to help the public easily access and leverage the R&D activities at all the DOE labs and facilities. Third, I've proposed to help seed small technology clusters local to the labs under merit review and with the discretion not to proceed forward if the FY 2001 NNSA pilot program proves unworkable. Technology clusters are the next evolutionary stage past a static CRADA. Fourth, I've asked the Secretary to implement, where its feasible, a policy where by laboratory personnel can move with the technology to start up a company outside the fence. Fifth, I asked the Secretary to ensure where its reasonable a uniform policy to help small businesses with their unique needs access DOE technology. Like most government programs that come under close scrutiny by Congress, their intent is worthy but the program's size oscillates greatly over time. The pendulum for tech transfer at the DOE is one such program. This program has swung from a \$200 million program in the mid 1990's to essentially zero funding in FY 2001 with a minimal headquarter's office to help policy development across its diverse mission areas. This bill establishes what I feel is the right level of tech transfer in a R&D organization by leveraging the existing industrial collaboration that naturally occurs in carrying out their missions.

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

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

S. 259

*Be in 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 "National Laboratories Partnership Improvement Act of 2001".

#### **SEC. 2. DEFINITIONS.**

For purposes of this Act—

(1) the term "Department" means the Department of Energy;

(2) the term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "National Laboratory" means any of the following multi-purpose laboratories owned by the Department of Energy—

- (A) Argonne National Laboratory;
- (B) Brookhaven National Laboratory;
- (C) Idaho National Engineering and Environmental Laboratory;
- (D) Lawrence Berkeley National Laboratory;
- (E) Lawrence Livermore National Laboratory;
- (F) Los Alamos National Laboratory;
- (G) National Renewable Energy Laboratory;
- (H) Oak Ridge National Laboratory;
- (I) Pacific Northwest National Laboratory;

or

(J) Sandia National Laboratory;

(5) the term "facility" means any of the following primarily single purpose entities owned by the Department of Energy—

- (A) Ames Laboratory;
- (B) East Tennessee Technology Park;
- (C) Environmental Measurement Laboratory;
- (D) Fernald Environmental Management Project;
- (E) Fermi National Accelerator Laboratory;
- (F) Kansas City Plant;
- (G) National Energy Technology Laboratory;
- (H) Nevada Test Site;
- (I) New Brunswick Laboratory;
- (J) Pantex Weapons Facility;
- (K) Princeton Plasma Physical Laboratory;
- (L) Savannah River Technology Center;
- (M) Standard Linear Accelerator Center;
- (N) Thomas Jefferson National Accelerator Facility;
- (O) Y-12 facility at Oak Ridge National Laboratory; or

(P) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities;

(6) the term "nonprofit institution" has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(5));

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "small business concern" has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632);

(9) the term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

- (A) conducts scientific or engineering research,
  - (B) develops new technologies,
  - (C) manufactures products based on new technologies, or
  - (D) performs technological services;
- (10) the term "technology cluster" means a concentration of—

- (A) technology-related business concerns;
- (B) institutions of higher education; or
- (C) other nonprofit institutions,

that reinforce each other's performance in the areas of technology development through formal or informal relationships;

(11) the term "socially and economically disadvantaged small business concerns" has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)); and

(12) the term "NNSA" means the National Nuclear Security Administration established by title XXXII of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65).

(13) the term Technology Partnerships Working Group refers to the organization of technology transfer representatives of DOE laboratories and facilities, the purpose of which is to coordinate technology transfer activities occurring at DOE laboratories and facilities, exchange information about technology transfer practices, and develop and disseminate to the public and prospective technology partners information about DOE technology transfer opportunities and procedures.

### SEC. 3. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary, through the appropriate officials of the Department, shall establish a Technology Infrastructure Program in accordance with this section.

(b) **PURPOSE.**—The purpose of the program shall be to improve the ability of National Laboratories or facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support the missions of the National Laboratories or facilities;

(2) improving the ability of National Laboratories or facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or facilities and—

- (A) institutions of higher education,
- (B) technology-related business concerns,
- (C) nonprofit institutions, and
- (D) agencies of State, tribal, or local governments,

that can support the mission of the National Laboratories and facilities.

(c) **PROGRAM.**—In each of the first three fiscal years after the date of enactment of this section, the Secretary may provide no more than \$10,000,000 to National Laboratories or Facilities designated by the Secretary to conduct Technology Infrastructure Program Programs.

(d) **PROJECTS.**—The Secretary shall authorize the Director of each National Laboratory or facility designated under subsection (c) to implement the Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (e) and (f).

(e) **PROGRAM REQUIREMENTS.**—Each project funded under this section shall meet the following requirements:

(1) **MINIMUM PARTICIPANTS.**—Each project shall at a minimum include—

- (A) a National Laboratory or facility; and
- (B) one of the following entities—
  - (i) a business,
  - (ii) an institution of higher education,
  - (iii) a nonprofit institution, or
  - (iv) an agency of a State, local, or tribal government.

(2) **COST SHARING.**—

(A) **MINIMUM AMOUNT.**—Not less than 50 percent of the costs of each project funded under this section be provided from non-Federal sources.

(B) **QUALIFIED FUNDING AND RESOURCES.**—

(i) The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project.

(ii) Independent research and development expenses of government contractors that qualify for reimbursement under section 31-205-18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of

the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended either before the start of a project under this section or outside the project's scope of work shall be credited toward the costs paid by the non-Federal sources to the project.

(3) **COMPETITIVE SELECTION.**—All projects where a party other than the Department or a National Laboratory or facility receives funding under this section shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary or his designee.

(4) **ACCOUNTING STANDARDS.**—Any participant receiving funding under this section, other than a National Laboratory or facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) **LIMITATIONS.**—No federal funds shall be made available under this section for—

- (A) construction; or
- (B) any project for more than five years.

(f) **SELECTION CRITERIA.**—

(1) **THRESHOLD FUNDING CRITERIA.**—The Secretary shall authorize the provision of Federal funds for under this section only when the Director of the National Laboratory or facility managing such a project determines that the project is likely to improve the participating National Laboratory or facility's ability to achieve technical success in meeting departmental missions.

(2) **ADDITIONAL CRITERIA.**—The Secretary shall also require the Director of the National Laboratory or facility managing a project under this section to consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan;

(B) the potential of the project to promote the development of a commercially sustainable technology cluster, one that will derive most of the demand for its products or services from the private sector, that can support the missions of the participating National Laboratory or facility;

(C) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or facility to achieve its departmental mission or the commercial development of technological innovations made at the participating National Laboratory or facility;

(D) the commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;

(E) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or facility and that will make substantive contributions to achieving the goals of the project;

(F) the extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project; and

(G) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves such small business concerns substantively in the project.

(3) **SAVINGS CLAUSE.**—Nothing in this subsection shall limit the Secretary from requiring the consideration of other criteria,

as appropriate, in determining whether projects should be funded under this section.

(g) **REPORT TO CONGRESS ON FULL IMPLEMENTATION.**—Not later than 120 days after the start of the third fiscal year after the date of enactment of this section, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the fully implemented program should be managed.

#### **SEC. 4. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

(a) **ADVOCACY FUNCTION.**—The Secretary shall direct the Director of each National Laboratory, and may direct the Director of each facility the Secretary determines to be appropriate, to establish a small business advocacy function that is organizationally independent of the procurement function at the National Laboratory or facility. The person or office vested with the small business advocacy function shall—

(1) work to increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or facility;

(2) report to the Director of the National Laboratory or facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;

(4) increase the awareness inside the National Laboratory or facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report the effectiveness of such program to the Director of the National Laboratory or facility.

(b) **ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.**—The Secretary shall direct the Director of each National Laboratory, and may direct the Director of each facility the Secretary determines to be appropriate, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or facility; or

(2) general technical assistance, the cost of which shall not exceed \$10,000 per instance of assistance, to improve the small business concern's products or services.

(c) **USE OF FUNDS.**—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

#### **SEC. 5. POLICY CONTINUITY FOR PARTNERSHIPS, AND TECHNOLOGY TRANSFER.**

(a) The Secretary shall establish within the Office of Policy, in conjunction with that Office's responsibilities as executive secretariat to the Department's Research and Development Council, a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department of Energy.

(1) The Secretary through Technology Transfer Coordinator, shall to the extent feasible, insure that the recommendations from the Report as generated by the Secretary of Energy Advisory Board in Sec. 3163 of the "National Defense Authorization Act for Fiscal Year 2001" are coordinated and carried Department-wide to non-NNSA laboratories and facilities consistent with the statutory authority of the Administrator of the NNSA.

(2) No funds under Section 3(c) for partnerships shall be allocated under this Act until

the Secretary through the Technology Transfer Coordinator has submitted to Congress an implementation plan that adequately addresses concerns outlined by the Administrator of NNSA of the Technology Infrastructure Pilot Program of collaborative projects as outlined in Section 3161(b) of the "National Defense Authorization Act for Fiscal Year 2001". The Secretary shall retain the discretion to not implement the partnership program defined by Section 3 if the implementation concerns cannot be reasonably addressed.

(3) The Technology Transfer Coordinator shall prepare a report to Congress for each fiscal year of funding under this Act outlining accomplishments, anticipated shortfalls, proposed remedies and expenditure of funds related to DOE Technology Transfer. The report should address the integration of the Department's Technology Transfer efforts within the overall scope of Technology Transfer Policies within the U.S. Government.

(4) The Technology Transfer Coordinator shall be designated by the Secretary as the Senior Departmental Official responsible for liaison with, and the oversight of funds authorized in section 5(c) the Technology Partnerships Working Group. The Coordinator shall report on the Group's activities and budget in subsection (3).

(b) **AUTHORIZATION.**—The following sums are authorized to be appropriated to the Secretary of Energy, to carry out the duties of the Technology Transfer Coordinator and staff, to remain available until expended, for the purposes of carrying out this Act:

(1) \$2,500,000 for Fiscal Year 2002

(1) \$2,600,000 for Fiscal Year 2003

(1) \$2,800,000 for Fiscal Year 2004

(1) \$2,800,000 for Fiscal Year 2005

(1) \$2,800,000 for Fiscal Year 2006

(c) **POLICY DEVELOPMENT.**—of the funds authorized to be appropriated under subsection (b) the following sums are authorized to be appropriated to carry out DOE Technology Transfer Policy Development and Reporting:

(1) \$1,000,000 for Fiscal Year 2002

(2) \$1,100,000 for Fiscal Year 2003

(3) \$1,200,000 for Fiscal Year 2004

(4) \$1,200,000 for Fiscal Year 2005

(5) \$1,200,000 for Fiscal Year 2006

(d) **TECHNOLOGY PARTNERSHIPS WORKING GROUP.**—of the funds under subsection (b), the following sums are authorized to be appropriated to carry out administrative tasks DOE Technology Partnerships Working Group:

(1) \$1,400,000 for Fiscal Year 2002

(2) \$1,500,000 for Fiscal Year 2003

(3) \$1,600,000 for Fiscal Year 2004

(4) \$1,600,000 for Fiscal Year 2005

(5) \$1,600,000 for Fiscal Year 2006

#### **SEC. 6. OTHER TRANSACTIONS AUTHORITY.**

(a) **NEW AUTHORITY.**—Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended adding at the end the following new subsection:

“(g) **OTHER TRANSACTIONS AUTHORITY.**—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

“(2)(A) The Secretary of Energy shall ensure that—

“(i) to the maximum extent practicable, no transaction entered into under paragraph (1)

provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy; and

“(ii) to the extent that the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction.

“(B) A transaction authorized by paragraph (1) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

“(3)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-Federal entity under paragraph (1) that is privileged and confidential.

“(B) The Secretary shall not disclose, for five years after the date the information is received, any other information submitted by a non-Federal entity under paragraph (1), including any proposal, proposal abstract, document supporting a proposal, business plan, or technical information that is privileged and confidential.

“(C) The Secretary may protect from disclosure, for up to five years, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.”.

(b) **IMPLEMENTATION.**—Not later than six months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions. Other transactions shall be made available, if needed, in order to implement projects funded under section 3.

#### **SEC. 7. MOBILITY OF TECHNICAL PERSONNEL.**

(a) **GENERAL POLICY.**—Not later than two years after the enactment of this Act, based upon the report generated under Section 3161(a)(2) of the "National Defense Authorization Act for Fiscal Year 2001", the Secretary through the Technology Transfer Coordinator shall determine whether it is reasonable to ensure whether each contractor operating a National Laboratory or facility has policies and procedures that do not create disincentives to the transfer of scientific, technical and business personnel among the contractor-operated National Laboratory or facilities. This determination may be made on an individual laboratory or facility basis due to their varied missions.

#### **SEC. 8. CONFORMANCE WITH NNSA STATUTORY AUTHORITY.**

All actions taken by the Secretary in carrying out this Act with respect to National Laboratories and facilities that are part of the NNSA shall be through the Administrator for Nuclear Security in accordance with the requirements of title XXXII of the National Defense Authorization Act for Fiscal Year 2000.

By Ms. SNOWE:

S. 261. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Health, Education, Labor and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce a bill which builds on progress made in the last few years in the difficult and challenging fight against breast cancer.

Our challenge was summed up by one breast cancer advocate when she stated, simply and eloquently, “We must



make our voices heard, because it is our lives."

A diagnosis of breast cancer is something that every woman dreads. Over 192,000 American women, and 1,000 in my home state of Maine—will face a diagnosis of breast cancer this year. Over 40,000 women across the country will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and 54, there is no other disease which will claim more lives.

This bill will give breast cancer advocates a voice in the National Institutes of Health's, NIH's research decision-making. The Consumer Involvement in Breast Cancer Research Act urges NIH to follow the Department of Defense's lead and include lay breast cancer advocates in breast cancer research decision-making.

The involvement of these breast cancer advocates at DOD has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the higher level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease, as well as the scientific community.

I hope that my colleagues will join me in supporting this bill.

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

S. 262. A bill to provide for teaching excellence in America's classrooms and homerooms; to the Committee on Health, Education, Labor, and Pensions.

Mr. CLELAND. Mr. President, this nation was rocked by the publication, in 1983, of the landmark report, *A Nation at Risk*. The findings were devastating: Our educational system was being "eroded by a rising tide of mediocrity that threatens our future as a nation and a people." That report went on to say that if "an unfriendly foreign power" had tried to impose on America our "mediocre educational performance," we might well have viewed it "as an act of war."

*A Nation at Risk* sounded a wake-up call to our educators, parents, businesses, community leaders and officials at all levels of government. Since its publication in 1983, a number of states have strengthened their commitment to educational improvements. Many tightened high school graduation requirements. They pushed for more achievement testing for students and higher standards for teachers.

As a result of these efforts, we have seen improvement. Our dropout rate is down, and student achievement is up. Performance on the National Assessment of Educational Progress, NAEP, has increased, particularly in the key subjects of reading, math, and science. Yet still, in America, 2,800 high school students drop out every single day.

Each school year, more than 45,000 under-prepared teachers, teachers who have not even been trained in the subjects they are teaching, enter the classroom. Clearly, this is not acceptable.

The positive news is that eighteen years after *A Nation at Risk*, there is widespread agreement that the improvement of our educational system must be a priority and hope that there will be consensus on education reform. Key to the success of any effective education reform initiative is the issue of teacher quality. What teachers know and can do are the single most important influences on what students learn, according to the National Commission for Teaching and America's Future Teachers.

Three years after *A Nation at Risk*, the Carnegie Task Force on Teaching as a Profession issued a seminal report, *A Nation Prepared: Teachers for the 21st Century*. Its leading recommendation called for the establishment of a National Board for Professional Teaching Standards. Founded in 1987, the National Board for Professional Teaching Standards is an independent, non-profit, and non-partisan organization whose mission is to establish high and rigorous standards for what accomplished teachers should know and be able to do.

To date, over 9,500 teachers from all 50 states and the District of Columbia have completed advanced certification by the National Board for Professional Teaching Standards—the most rigorous assessment process that a teacher can go through and the highest professional credential in the field of teaching. And more than 12,000 teachers have applied for National Board Certification in the 2000–2001 school year. Recognizing the value of qualified teachers in the classroom, 39 states and 181 local school districts have enacted financial incentives for teachers seeking National Board Certification, including fee support to candidates and salary increases for teachers who successfully complete the certification process.

Georgia, for example, provides a 10 percent salary increase to teachers who achieve National Board Certification as well as full reimbursement of the \$2300 fee upon certification. The State of Louisiana provides an annual salary adjustment of \$5,000 for its National Board Certified Teachers, NBCTs, and in addition, the State Board of Elementary and Secondary Education has allocated a \$300,000 supplement over a three-year period to provide fee support for National Board Certification. North Carolina, which has over 2,400 National Board Certified Teachers, has a particularly strong support program. Among its incentives, the State pays the fee for up to 1,500 teachers who complete the National Board Certification process; offers up to three days of release time for candidates to work on their portfolios and prepare for the assessment center exercises; and provides a 12 percent salary increase for

those who achieve National Board Certification. Florida, with 1,267 National Board Certified Teachers, has passed legislation appropriating \$12 million to pay 90 percent of its candidates' certification fee. In addition, the State provides a 10 percent salary increase for the life of the certificate and an additional 10 percent bonus to those who mentor newly hired teachers or serve as support mentors for advanced certification candidates. Florida also provides \$150 to candidates to offset National Board Certification expenses.

The incentives offered by Georgia, Louisiana, North Carolina, Florida and the remaining 35 states clearly demonstrate that state leaders recognize and understand the value and contribution of National Board Certification to their own efforts to enhance quality teaching and improve school performance. In an effort to assist states' efforts and to encourage participation, the 1994 Improving America's Schools Act authorized federal assistance to the National Board for Professional Teaching Standards. To date, the Board has provided over \$18 million to the states according to a formula based on teacher population. In FY 2000, \$2.5 million was appropriated to help states and local schools districts subsidize the certification fee for National Board Certified candidates.

In each and every year since funding was authorized, candidate demand has outpaced the money available. Therefore in an effort to encourage and promote teacher quality in the classroom, I am joined today by my colleague, Senator LANDRIEU, in introducing the Teaching Excellence in America's Classrooms and Homerooms (TEACH) Act. According to a new study by the National Education Association, teacher salaries have remained stagnant over the past decade, and two-thirds of the states do not meet the national average of \$40,582 for teacher salaries. Therefore to help teachers pay the \$2300 certification fee, our bill would double the candidate subsidy funding, from the current \$2.5 million to \$5 million. Further, our legislation would provide an additional \$1 million for outreach and educational activities to heighten teachers' awareness of the National Board Certification process, with a priority given to teachers in school districts serving special populations, including limited English proficient children, children with disabilities, and economically and educationally disadvantaged children.

Teachers who successfully complete the arduous requirements for National Board Certification should not be penalized. Therefore, our legislation would provide that any financial benefit, such as a bonus, which a teacher receives solely as a result of achieving National Board Certification would be tax-free. And teachers who pay out of pocket expenses for advanced certification, such as fees, travel, and supplies, should be reimbursed for these costs. The Teaching Excellence in

America's Classrooms and Homerooms would allow candidates to take an above-the-line deduction for their certification expenses. This will allow these teachers who do not itemize their deductions to still be able to benefit from tax-favored treatment for their National Board Certification.

A study by researchers at the University of North Carolina at Greensboro has recently concluded that teachers who are certified by the National Board for Professional Teaching Standards significantly outperform their peers who are not National Board Certified on 11 of 13 key measures of teaching expertise, including an extensive knowledge of subject matter, the capacity to create optimal environments for learning, and the ability to inspire students and to promote in them problem-solving skills. The Accomplished Teaching Validation Study, released in October, was originally designed as a means to seek independent validation for the National Board's assessment process, and it is based on criteria which two decades of research have deemed to be the measures of effective teaching. Among its conclusions, the study found that nearly three-quarters of the National Board Certified Teachers produced students whose work reflected deep understanding of the subject being studied compared with less than one-quarter of non-certified teachers. The Greensboro study is believed by some education leaders to be the first step in compiling research that will shed important light on the connection between accomplished teaching and student learning.

Christa McAuliffe, selected to be the first schoolteacher to travel in space, described simply but poetically the awesome potential of her vocation: "I touch the future," she said. "I teach." If we are to improve student achievement and success in school, the United States must encourage and support the training and development of our nation's teachers, the single most important in-school influence on student learning. Investing in teacher quality is a direct investment in quality education—and as Benjamin Franklin said, "on education all our lives depend."

I ask unanimous consent that the text of the bill and the letter of support from the National Education Association be printed in the RECORD.

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

S. 262

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

#### **TITLE I—NATIONAL BOARD CERTIFICATION ASSISTANCE**

##### **SEC. 101. NATIONAL BOARD CERTIFICATION ASSISTANCE.**

Part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621 et seq.) is amended by adding at the end the following:

##### **"SEC. 2104. NATIONAL BOARD CERTIFICATION ASSISTANCE.**

"(a) **SHORT TITLE.**—This section may be cited as the "Teaching Excellence in Amer-

ica's Classrooms and Homerooms Act" (TEACH).

"(b) **FINDINGS.**—Congress makes the following findings:

"(1) Accomplished teachers are an essential resource for schools and key to the success of any effective education reform initiative. What teachers know and can do are the most important influences on what students learn, according to national studies.

"(2) Three years after the landmark 1983 report, 'A Nation at Risk', the Carnegie Task Force on Teaching as a Profession issued a seminal report entitled 'A Nation Prepared: Teachers for the 21st Century'. Its leading recommendation called for the establishment of a National Board for Professional Teaching Standards. Founded in 1987, the National Board for Professional Teaching Standards is an independent, nonprofit and nonpartisan organization whose mission is to establish high and rigorous standards for what accomplished teachers should know and be able to do.

"(3) Over 9,500 teachers from all 50 States and the District of Columbia have completed advanced certification by the National Board for Professional Teaching Standards, which certification is the most rigorous assessment process that a teacher can go through and the highest professional credential in the field of teaching. And more than 12,000 teachers have applied for National Board Certification in the 2000–2001 school year.

"(4) Teacher salaries have remained stagnant over the past decade, according to a new study by the National Education Association, and % of the States do not meet the national average of \$40,582 for teacher salaries.

"(5) The full fee for National Board Certification is \$2,300. Thirty-nine States and 181 local school districts have enacted financial incentives for teachers seeking National Board Certification, including fee support to candidates and salary increases for teachers who achieve National Board Certification.

"(6) Recent data from the Accomplished Teaching Validation Study have demonstrated that teachers who are certified by the National Board for Professional Teaching Standards significantly outperform their peers who are not National Board Certified on 11 of 13 key measures of teaching expertise.

"(7) If we are to improve student achievement and success in school, the United States must encourage and support the training and development of our Nation's teachers, who are the single, most important in-school influence on student learning.

"(c) **PURPOSE.**—The purpose of this section is to provide a Federal subsidy and support to certain elementary school and secondary school teachers who pursue advanced certification provided by the National Board for Professional Teaching Standards.

"(d) **DEFINITIONS.**—In this section:

"(1) **BOARD.**—The term 'Board' means the National Board for Professional Teaching Standards.

"(2) **ELIGIBLE TEACHER.**—The term 'eligible teacher' means an individual who is a pre-kindergarten or early childhood educator, or a kindergarten through grade 12 classroom teacher, instructor, counselor, or principal in an elementary school or secondary school on a full-time basis.

"(e) **PROGRAM AUTHORIZATION.**—

"(1) **PROGRAM AUTHORIZED.**—From sums appropriated pursuant to the authority of subsection (g) for any fiscal year, the Secretary, in accordance with this section, shall provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the authorized activities described in subsection (f).

"(f) **AUTHORIZED ACTIVITIES.**—

"(1) **IN GENERAL.**—Federal funds received under this section may be used only for the following activities:

"(A) To help States and local school districts provide fee support to teachers seeking National Board Certification.

"(B) For outreach and educational activities directly related to teachers' awareness and pursuit of National Board Certification.

"(2) **PRIORITIES.**—The Board shall give priority to providing outreach and educational activities under paragraph (1)(B) among the following:

"(A) School districts in which there are a significant number of low-performing schools.

"(B) School districts with low teacher participation rates in the National Board Certification process.

"(C) School districts serving special populations, including—

"(i) limited English proficient children;

"(ii) gifted and talented children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children.

"(g) **AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.**—

"(1) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$6,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) **ALLOCATION.**—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary shall make available—

"(A) 85 percent of such amounts to carry out subsection (f)(1)(A); and

"(B) 15 percent of such amounts to carry out subsection (f)(1)(B)."

#### **TITLE II—TAX INCENTIVES FOR TEACHER CERTIFICATIONS**

##### **SEC. 201. EXCLUSION OF CERTAIN AMOUNTS RECEIVED BY CERTIFIED TEACHERS.**

(a) **IN GENERAL.**—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

##### **"SEC. 139. CERTAIN AMOUNTS RECEIVED BY CERTIFIED TEACHERS.**

"(a) **IN GENERAL.**—In the case of an eligible teacher, gross income shall not include the value of any eligible financial benefit received during the taxable year.

"(b) **ELIGIBLE TEACHER.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'eligible teacher' means an individual who is a pre-kindergarten or early childhood educator, or a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

"(2) **ELEMENTARY AND SECONDARY SCHOOLS.**—The terms 'elementary school' and 'secondary school' have the respective meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965.

"(c) **ELIGIBLE FINANCIAL BENEFIT.**—For purposes of this section, the term 'eligible financial benefit' means any financial benefit, including incentive payment, received solely by reason of the successful completion by the eligible teacher of the requirements for advanced certification provided by the National Board for Professional Teaching Standards. Such completion shall be verified in such manner as the Secretary shall prescribe by regulation.

"(d) **AMOUNTS MUST BE REASONABLE.**—Amounts excluded under subsection (a) shall

include only amounts which are reasonable.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(19) of the Internal Revenue Code of 1986 is amended by striking “117 or 132” and inserting “117, 132, or 139”.

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following new items:

“Sec. 139. Certain amounts received by certified teachers.

“Sec. 140. Cross references to other Acts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**SEC. 202. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO QUALIFIED ADVANCED CERTIFICATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Section 67(b) of the Internal Revenue Code of 1986 (defining miscellaneous itemized deductions) is amended by striking “and” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, and”, and by adding at the end the following new paragraph: “(13) any deduction allowable for the qualified advanced certification expenses paid or incurred by an eligible teacher (as defined in section 139(b)).”.

(b) DEFINITIONS.—Section 67 of the Internal Revenue Code of 1986 (relating to 2-percent floor on miscellaneous itemized deductions) is amended by adding at the end the following new subsection:

“(g) QUALIFIED ADVANCED CERTIFICATION EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13), the term ‘qualified advanced certification expenses’ means expenses—

“(1) for fees, supplies, equipment, transportation, and lodging required to secure the advanced certification provided by the National Board for Professional Teaching Standards, and

“(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

NATIONAL EDUCATION ASSOCIATION,

Washington, DC, February 5, 2001.

Senator MAX CLELAND,

U.S. Senate,

Washington, DC.

DEAR SENATOR CLELAND: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for the Teaching Excellence in America's Classrooms and Homerooms (TEACH) Act. We believe this legislation will make a critical difference in allowing teachers to pursue National Board Certification and, thereby, ensuring the highest quality teachers in our nation's classrooms.

As you know, no single factor will have a greater impact on improving student achievement than the quality of our nation's teaching force. National Board Certification offers the highest credential in the teaching profession, taking teachers through a rigorous assessment and evaluation process. An October 2000 study found that Board Certified teachers significantly outperformed their peers on 11 of 13 measures of teaching expertise. In addition, the study found that 74 percent of work samples from students of Certified teachers reflected “high levels of comprehension,” compared with 29 percent of students whose teachers did not have national certification.

Unfortunately, the high cost prohibits many teachers from seeking Board Certifi-

cation. By providing funding to states and local districts to help teachers pay Board Certification fees, your legislation will enable more teachers to participate in this important process. In addition, the resources provided for outreach will help bring information about Board Certification to many more teachers.

We thank you for your leadership in introducing the TEACH Act and look forward to working with you in support of our nation's teachers.

Sincerley,

MARY ELIZABETH TEASLEY,  
Director of Government Relations.

By Ms. SNOWE (for herself and Mr. TORRICELLI):

S. 263. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

S. 264. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis; to the Committee on Governmental Affairs.

Ms. SNOWE. Mr. President, I rise today to introduce two bills which build on progress made in the last few years in the difficult and challenging fight against osteoporosis. I am pleased to be joined by my friend, Senator TORRICELLI of New Jersey, as an original cosponsor of these bills.

Osteoporosis is a major public health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass. Osteoporosis causes 1.5 million fractures annually at a cost of \$13.8 billion—\$38 million per day—in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. Amazingly, a woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. Though we now have drugs that promise to reduce fractures by 50 percent and new drugs have been proven to actually rebuild bone mass, a bone mass measurement is needed to diagnose osteoporosis and determine one's risk for future fractures.

And we have learned that there are some prominent risk factors: age, gender, race, a family history of bone fractures, early menopause, risky health behaviors such as smoking and excessive alcohol consumption, and some medications all have been identified as contributing factors to bone loss. But identification of risk factors alone cannot predict how much bone a person has and how strong bone is.

Congress passed the Balanced Budget Act 3½ years ago. In doing so, we dramatically expanded coverage of osteoporosis screening through bone mass measurements for Medicare beneficiaries.

Since we passed this law, we have learned that under the current Medicare law, it is very difficult for a man to be reimbursed for a bone mass measurement test. Each year, men suffer one-third of all the hip fractures that occur, and one-third of these men will not survive more than one year. In addition to hip fracture, men also experience painful and debilitating fractures of the spine, wrist, and other bones due to osteoporosis.

The first bill we are introducing today, the Medicare Osteoporosis Measurement Act, would help all individuals enrolled in Medicare to receive the necessary tests if they are at risk for osteoporosis.

Currently, Medicare guidelines allow for testing in five categories of individuals—and most “at risk” men do not fall into any of them. The first category in the guidelines is for “an estrogen-deficient woman at clinical risk for osteoporosis.” The Medicare Osteoporosis Measurement Act changes this guideline to say that “an individual, including an estrogen-deficient woman, at clinical risk for osteoporosis” will be eligible for bone mass measurement. This change—of just a few words—will vastly increase the opportunities for men to be covered for the important test.

The second bill Senator TORRICELLI and I are introducing today is similar to the Medicare bone mass measurement benefit. The Osteoporosis Federal Employee Health Benefits Standardization Act guarantees the same uniformity of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries in 1997.

Unfortunately, coverage of bone density tests under the Federal Employee Health Benefit Program, FEHBP, is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the almost 300 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. Many plans have no specific rules to guide reimbursement and cover the tests on a case-by-case basis. Some plans refuse to provide consumers with information indicating when the plan covers the test and when it does not and some plans cover the test only for people who already have osteoporosis.

Mr. President, we know that osteoporosis is highly preventable, but only if it is discovered in time. There is simply no substitute for early detection. These bills will ensure that all Medicare beneficiaries at risk for osteoporosis will be able to be tested for this disease, and will standardize coverage for bone mass measurement under the FEHBP.

I hope that our colleagues will join Senator TORRICELLI and me in supporting these bills.

By Mr. FITZGERALD (for himself, Mr. BAYH, Mr. BROWNBACK, Mr. KOHL, and Mr. DURBIN):

S. 265. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

Mr. FITZGERALD. Mr. President, I rise today to introduce the "MTBE Elimination Act of 2001." I thank my colleagues—Senators BAYH, BROWNBACK, KOHL, and DURBIN for joining me as original co-sponsors of this important legislation. I have become deeply concerned by the use and ultimate misuse of the gasoline additive methyl tertiary butyl ether, MTBE, a nonrenewable fuel derivative, and its potential adverse health effects on those who come in contact with it. As my colleagues may remember, I introduced the "MTBE Elimination Act of 2000" last Congress, but no action was taken in the 106th Congress to eliminate the use of this potentially hazardous chemical additive.

Specifically, the "MTBE Elimination Act of 2001" will phase out MTBE use across the United States over the next three years, ensure proper labeling of all fuel dispensaries containing MTBE enriched reformulated gasoline, provide grant awards for MTBE research, and express the sense of the Senate that the Administrator of the Environmental Protection Agency should provide assistance to municipalities to test for MTBE in drinking water sources, as well as provide remediation where appropriate. This bill represents an important first step toward nationwide safe and healthy drinking water.

Despite the potential damaging effects of MTBE, research of this chemical is still in its preliminary stages. In February of 1996, the Health Effects Institute reported that MTBE could be classified as a neurotoxicant for its acute impairment effects on humans. Further, the Alaska Department of Health and Social Services and the Centers for Disease Control from December 1992 through February 1993 monitored concentrations of MTBE in the air and in the blood of humans. These studies showed that people with a higher concentration of MTBE in their bloodstream have a much greater tendency toward headaches, eye irritation, nausea, disorientation, and vomiting. Finally, the January 16, 2000 broadcast of the "60 Minutes" show noted, "the EPA's position is that MTBE is a possible human carcinogen." Mr. President, we must remove this kind of chemical from our Nation's drinking water supply.

Widespread pollution of water systems by MTBE has been perpetuated by a lack of knowledge, as well as indifference, to this potentially hazardous substance. MTBE does not readily attach to soil particles, nor does it naturally biodegrade, making its movement from gasoline to water extremely rapid. The physical properties of MTBE, coupled with its potential adverse health effects, make the use of this specific oxygenate dangerous to the American people.

The elimination of the use of MTBE in reformulated gasoline should not mean the removal of the oxygenate requirement set forth under the Clean Air Act of 1990—which requires reformulated gasoline to contain two percent oxygen by weight. I believe it to be reasonable for our nation to expect both clean air and clean water, without having to eliminate the reformulated gasoline market or sacrifice our national health.

According to the United States Department of Agriculture study entitled "Economic Analysis of Replacing MTBE with Ethanol in the United States," replacing MTBE with the corn-based oxygenate additive ethanol would create approximately 13,000 new jobs in rural America, increase farm income by more than \$1 billion annually over the next ten years, and reduce farm program costs and loan deficiency payments through an expanded value-added market for grain. Furthermore, the U.S. Department of Agriculture has concluded that within three years, ethanol can be used as a substitute oxygenate for MTBE in nationwide markets without price increases or supply disruptions.

Ethanol has proven to be a viable, environmentally-friendlier alternative to MTBE. The Chicago reformulated gas program (RFG) has used ethanol for years, and according to the American Lung Association, Chicago has established one of the most successful RFG programs in the country. Ethanol is vitally important to my home state since Illinois is the number one producer of ethanol in the nation. Each year, 274 million bushels of Illinois corn are used to produce about 678 million gallons of ethanol. At a time when agricultural prices are at near-record lows, this increased demand is sorely needed.

Recently, Tosco Corporation, one of the nation's largest independent oil refiners and marketers, announced its intention to sell ethanol-blended fuel from its 1,600 retail outlets throughout California. This decision will result in the replacement of MTBE with ethanol in one-fifth of California's reformulated gasoline by the end of this year, thereby helping to protect California's water supply for future generations, while keeping its air clean. The bill that I introduce today paves the way for this important bio-based fuel to be used not only in California and the Midwest, but nationwide. By supporting bio-based fuel through legislative measures such as this bill, we are taking positive and decisive steps toward cleaning our nation's water, and the environment we will leave for our children and grandchildren.

This legislation will send a signal that the Senate strongly supports bio-based fuels research and recognizes the need to find viable ways to reduce our dependency on fossil fuels.

Through research programs, localized testing, and proper labeling we can help assure that MTBE is properly identified in gasoline, extracted from

groundwater, and phased out of use thereby reducing the risk of future MTBE contamination.

By phasing out MTBE over a three year period and replacing it with ethanol, we can help secure an ample supply of reformulated gasoline, clean water, and clean air for future generations. This bill should enjoy bipartisan support. I urge my colleagues to join me in co-sponsoring this bill that is so important to the well being of the environment as well as our nation's farmers.

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

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

S. 265

*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 "MTBE Elimination Act".

#### SEC. 2. FINDINGS; SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) a single cup of MTBE, equal to the quantity found in 1 gallon of gasoline oxygenated with MTBE, renders all of the water in a 5,000,000-gallon well undrinkable;

(2) the physical properties of MTBE allow MTBE to pass easily from gasoline to air to water, or from gasoline directly to water, but MTBE does not—

(A) readily attach to soil particles; or

(B) naturally degrade;

(3) the development of tumors and nervous system disorders in mice and rats has been linked to exposure to MTBE and tertiary butyl alcohol and formaldehyde, which are 2 metabolic byproducts of MTBE;

(4) reproductive and developmental studies of MTBE indicate that exposure of a pregnant female to MTBE through inhalation can—

(A) result in maternal toxicity; and

(B) have possible adverse effects on a developing fetus;

(5) the Health Effects Institute reported in February 1996 that the studies of MTBE support its classification as a neurotoxicant and suggest that its primary effect is likely to be in the form of acute impairment;

(6) people with higher levels of MTBE in the bloodstream are significantly more likely to report more headaches, eye irritation, nausea, dizziness, burning of the nose and throat, coughing, disorientation, and vomiting as compared with those who have lower levels of MTBE in the bloodstream;

(7) available information has shown that MTBE significantly reduces the efficiency of technologies used to remediate water contaminated by petroleum hydrocarbons;

(8) the costs of remediation of MTBE water contamination throughout the United States could run into the billions of dollars;

(9) although several studies are being conducted to assess possible methods to remediate drinking water contaminated by MTBE, there have been no engineering solutions to make such remediation cost-efficient and practicable;

(10) the remediation of drinking water contaminated by MTBE, involving the stripping of millions of gallons of contaminated ground water, can cost millions of dollars per municipality;

(11) the average cost of a single industrial cleanup involving MTBE contamination is approximately \$150,000;

(12) the average cost of a single cleanup involving MTBE contamination that is conducted by a small business or a homeowner is approximately \$37,000;

(13) the reformulated gasoline program under section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) has resulted in substantial reductions in the emissions of a number of air pollutants from motor vehicles, including volatile organic compounds, carbon monoxide, and mobile-source toxic air pollutants, including benzene;

(14) in assessing oxygenate alternatives, the Blue Ribbon Panel of the Environmental Protection Agency determined that ethanol, made from domestic grain and potentially from recycled biomass, is an effective fuel-blending component that—

(A) provides carbon monoxide emission benefits and high octane; and

(B) appears to contribute to the reduction of the use of aromatics, providing reductions in emissions of toxic air pollutants and other air quality benefits;

(15) the Department of Agriculture concluded that ethanol production and distribution could be expanded to meet the needs of the reformulated gasoline program in 4 years, with negligible price impacts and no interruptions in supply; and

(16) because the reformulated gasoline program is a source of clean air benefits, and ethanol is a viable alternative that provides air quality and economic benefits, research and development efforts should be directed to assess infrastructure and meet other challenges necessary to allow ethanol use to expand sufficiently to meet the requirements of the reformulated gasoline program as the use of MTBE is phased out.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator of the Environmental Protection Agency should provide technical assistance, information, and matching funds to help local communities—

(1) test drinking water supplies; and

(2) remediate drinking water contaminated with methyl tertiary butyl ether.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE GRANTEE.—The term “eligible grantee” means—

(A) a Federal research agency;

(B) a national laboratory;

(C) a college or university or a research foundation maintained by a college or university;

(D) a private research organization with an established and demonstrated capacity to perform research or technology transfer; or

(E) a State environmental research facility.

(3) MTBE.—The term “MTBE” means methyl tertiary butyl ether.

#### SEC. 4. USE AND LABELING OF MTBE AS A FUEL ADDITIVE.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

“(f) USE OF METHYL TERTIARY BUTYL ETHER.—

“(1) PROHIBITION ON USE.—Effective beginning on the date that is 3 years after the date of enactment of this subsection, a person shall not use methyl tertiary butyl ether as a fuel additive.

“(2) LABELING OF FUEL DISPENSING SYSTEMS FOR MTBE.—Any person selling oxygenated gasoline containing methyl tertiary butyl ether at retail shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that—

“(A) specifies that the gasoline contains methyl tertiary butyl ether; and

“(B) provides such other information concerning methyl tertiary butyl ether as the Administrator determines to be appropriate.

“(3) REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Administrator shall establish a schedule that provides for an annual phased reduction in the quantity of methyl tertiary butyl ether that may be used as a fuel additive during the 3-year period beginning on the date of enactment of this subsection.”.

#### SEC. 5. GRANTS FOR RESEARCH ON MTBE GROUND WATER CONTAMINATION AND REMEDIATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established a MTBE research grants program within the Environmental Protection Agency.

(2) PURPOSE OF GRANTS.—The Administrator may make a grant under this section to an eligible grantee to pay the Federal share of the costs of research on—

(A) the development of more cost-effective and accurate MTBE ground water testing methods;

(B) the development of more efficient and cost-effective remediation procedures for water sources contaminated with MTBE; or

(C) the potential effects of MTBE on human health.

(b) ADMINISTRATION.—

(1) IN GENERAL.—In making grants under this section, the Administrator shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes for which a grant may be awarded under subsection (a); and

(D) give priority to those proposals the applicants for which demonstrate the availability of matching funds.

(2) COMPETITIVE BASIS.—A grant under this section shall be awarded on a competitive basis.

(3) TERM.—A grant under this section shall have a term that does not exceed 4 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2002 through 2005.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 266. A bill regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Indian Affairs.

Mr. WYDEN. Mr. President, I rise as the original cosponsor of the Pelton Dam Agreement legislation introduced today by my friend and colleague from Oregon, Senator GORDON SMITH.

This legislation sanctions an historic agreement, reached on April 12, 2000, between the Oregon Confederated Tribes of the Warm Springs Reservation, Warm Springs, Portland General Electric Company, PGE, and the United States Department of the Interior (Department). This agreement is important because it sets a responsible precedent for the joint ownership and operation of the Pelton-Round Butte Hydroelectric Project located in Jefferson County, Oregon, on the Deschutes River. It also provides a model for how the United States, Indian tribes and private companies can work together to solve contentious issues.

Beginning in the summer of 1998, the Warm Springs and PGE began negotiations to settle Pelton Dam Project ownership and operation issues. Approximately one-third of the Project lands are located on the Warm Springs Reservation. Because of the Department's legal trust responsibility to the Warm Springs, Department representatives also participated in the negotiations. On April 12, 2000, Department, Warm Springs and PGE representatives signed the Long Term Global Settlement and Compensation Agreement (Agreement). The Agreement creates shared ownership responsibilities and benefits between PGE and the Warm Springs for all three Pelton Project dams and facilities located both on and off the Warm Springs Reservation.

The Warm Springs, PGE and the Department worked with myself and Senator SMITH to carefully craft this legislation to authorize the Department to sanction the Agreement. This legislation provides Federal approval for only the aspects of the Agreement that affect tribal lands, resources, or other tribal assets. Section 2(b)(1) makes it clear that the legislation does not affect the normal Federal and State regulatory approvals that would be required for an agreement of this type. Section 2(b)(2) was included to address a Departmental concern that this legislation will not be interpreted to mean that legislative approval of future similar agreements will be necessary. In addition, this bill authorizes a 99-year leasing authority for the Warm Springs that is shared by countless other tribes.

This bill is supported by PGE, the Warm Springs Tribe and Jefferson County.

By Mr. AKAKA (for himself, Mr. REID, Mr. LEVIN, Mr. SCHUMER, Mr. GRAHAM, Mr. GREGG, Mr. TORRICELLI, Mrs. BOXER, and Mr. SMITH of New Hampshire):

S. 267. A bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, today I am reintroducing the Downed Animal Protection Act, a bill to eliminate inhumane and improper treatment of downed animals at stockyards. Senators CARL LEVIN, CHARLES SCHUMER, ROBERT TORRICELLI, JUDD GREGG, BOB GRAHAM, BOB SMITH, HARRY REID and BARBARA BOXER have joined me in sponsoring this bill. The legislation will prohibit the sale or transfer of downed animals unless they have been humanely euthanized.

Downed animals are severely distressed recumbent animals that are too sick to rise or move on their own. Once an animal becomes immobile, it must remain where it has fallen, often without receiving the most basic assistance. Many of these downed animals

that survive the stockyard are slaughtered for human consumption.

These animals are extremely difficult, if not impossible, to handle humanely. They have very demanding needs, and must be fed and watered individually. The suffering of downed animals is so severe that the only humane solution to their plight is immediate euthanasia. It is important to note that downed animals compromise a tiny fraction, less than one-tenth of one percent, of animals at stockyards. Banning their sale or transfer would cause no economic hardship.

While I commend the major livestock organizations such as the United Stockyards Corp., the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas, along with responsible and conscientious livestock producers throughout the country, for their efforts to address the issue of downed animals, this lamentable problem still exists. Not only is this suffering inhumane and unnecessary, it is eroding public confidence in the industry.

The Downed Animal Protection Act will prompt stockyards to refuse crippled and distressed animals, and will make the prevention of downed animals a priority for the livestock industry. The bill will complement and reinforce the industry's effort to address this problem by encouraging better care of animals at farms and ranches.

The bill will remove the incentive for sending downed animals to stockyards in the hope of receiving some salvage value for the animals and would encourage greater care during loading and transport. By eliminating this incentive, animals with impaired mobility will receive better treatment in order to prevent them from becoming incapacitated. In addition, the bill will also discourage improper breeding practices that account for most downed animals.

My legislation would set a uniform national standard, thereby removing any unfair advantages that might result from differing standards throughout the industry. Furthermore, no additional bureaucracy will be needed as a consequence of my bill because inspectors of the Packers and Stockyard Administration regularly visit stockyards to enforce existing regulations. Thus, the additional burden on the agency and stockyard operators will be insignificant.

As I stated before, this bill will stop the inhumane and improper treatment of downed animals at stockyards and I encourage my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 267

*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 "Downed Animal Protection Act".

#### SEC. 2. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Title III of the Packers and Stockyards Act, 1921, is amended by inserting after section 317 (7 U.S.C. 217a) the following:

##### "SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

"(a) DEFINITIONS.—In this section:

"(1) HUMANELY EUTHANIZED.—The term 'humanely euthanized' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

"(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

"(b) UNLAWFUL PRACTICES.—It shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) takes effect 1 year after the date of the enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment.

#### ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the names of the Senator from Virginia (Mr. WARNER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 38

At the request of Mr. INOUE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 38, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 41

At the request of Mr. HATCH, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from Virginia (Mr. WARNER), the Senator from Oregon (Mr. WYDEN), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 60

At the request of Mr. BYRD, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Ohio (Mr. DEWINE), the Senator from Wyoming (Mr. ENZI), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas (Mr. BROWNBACK) was withdrawn as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 110

At the request of Mr. FEINGOLD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 110, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 122

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 122, a bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes.

S. 123

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 123, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 126

At the request of Mr. CLELAND, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 131

At the request of Mr. JOHNSON, the names of the Senator from Nevada (Mr. REID), the Senator from Louisiana (Ms.