

services for the prevention of family violence.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Missouri (Mrs. CARNAHAN), the Senator from North Dakota (Mr. DORGAN), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. RES. 132

At the request of Mr. CAMPBELL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Res. 132, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS (for himself, Mr. CRAIG, and Mr. BURNS):

S. 2040. A bill to provide emergency agricultural assistance to producers of the 2002 crop; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ROBERTS. Mr. President, I rise today to introduce an agricultural supplemental assistance package for the 2002 crops. I had hoped we would not be in this position today. Unfortunately, due to delays in completing the farm bill conference report prior to the Easter recess, I believe it is necessary to introduce this legislation.

I want to make it very clear that in introducing this legislation, it does not mean the farm bill is dead. It may need CPR, but it certainly is not dead. Quite the contrary. The staff of conferees have been instructed by the distinguished leadership of both parties of the House and Senate to continue to work over the recess period in the hope that a bill can be completed shortly after the Easter recess. Having been involved in numerous farm bills, I know these conferences can often become quite contentious and bogged down.

Furthermore, it is not going to be easy to implement this bill, not to mention the wisdom of simply trying to push through a bill so we can just say it applies to 2002 crops. That may be easy to do this year, but it may be difficult to live under the problems we could create for the next 5 or 6 years.

Has anyone really stopped to consider this?

In addition, we already have many farmers in the South who have begun their spring planting, and producers all throughout the Nation will begin to pull their drills through the fields in the coming weeks. Many of these producers and their bankers are desperately trying to run cashflow charts and figure out exactly what they will be dealing with for this current crop as they work to determine their operating loans. They are scratching their heads.

The biggest uncertainty they face is the level and form of agricultural as-

sistance for this crop-year. Will it be through a new farm bill, if we can get through a new farm bill—and I certainly hope we can and people are working in good faith to get that accomplished—but will it be through a new farm bill in place for the 2002 crops, or will it be through a supplemental assistance package for 2002 while the new bill would go into effect for the 2003 crops?

My point in introducing this legislation is to send a clear message to producers and their bankers, and that message is this: We are going to do everything in our power in Congress to get a farm bill completed and out the door, but we should also make sure it is a good bill, and doing a good bill does take time. If additional time is needed to complete the bill past the time when it can apply to this year's crops, we are then ready to come in with a supplemental assistance package.

This is an important line in the sand that our producers and our lenders can use to gauge cashflow projections as they work on operating loans for this crop-year. It is an important and necessary signal as we move toward a planting season that will soon be in full swing in many parts of the country.

Unlike the 1,400-page farm bill we passed in the Senate, there are no surprises in this supplemental legislation. The bill is very similar to the assistance packages we have provided to our producers in recent years, and it adheres to the budget allocations that were provided for agriculture in last year's budget resolution.

I have a list of levels of assistance that will be provided to farmers and ranchers. The levels of assistance are as follows:

\$5.047 billion for a Market Loss Assistance, MLA, payment equal to the 2000 AMTA payment received by our producers. On a crop-by-crop basis, this is: wheat, 58.8 cents a bushel; corn, 33.4 cents a bushel; sorghum, 40 cents a bushel; barley, 25.1 cents a bushel; cotton, 7.33 cents a pound; rice, \$2.60 per cwt; oats, 2.8 cents a bushel.

All of these figures are above the level of MLAs we provided last year.

The bill also includes: \$466 million for oilseed payments; \$55.21 million for payments to peanut producers; \$93 million for recourse loans to honey producers; \$186 million for specialty crop commodity purchases, with at least \$55 million used for school lunch program purchases; \$16.94 million for payments to wool and mohair producers; \$93 million for cottonseed assistance; LDP eligibility for crops produced on non-AMTA acreage; LDP graze-out for wheat, barley, and oats for the 2002 crop; extension of the dairy price support program through December 31, 2002; \$20 million for payment to producers of pulse crops; \$100 million for tobacco assistance; \$44 million for Conservation Reserve Program Technical Assistance; \$200 million for the Wet-

lands Reserve Program; \$300 million in additional funds for the Environmental Quality Incentives Program, EQIP; \$161 million for the Farmland Protection Program; and \$500 million for the livestock feed assistance program, LAP, to provide assistance to producers for losses suffered in 2001 and 2002.

I will be happy to talk this proposal over with my colleagues, and I seek bipartisan cosponsors in this effort. These market loss assistance levels are above the levels provided to program crops last year and they are similar to the AMTA payment levels we provided in 2000.

In closing, while this package does not represent a new farm bill, it does send a strong signal to producers and their bankers that even if a farm bill cannot be completed in time to apply to the 2002 year crop, we do intend to hold them whole or have a hold harmless bill at a level of Market Loss Assistance that is somewhat higher than occurred last year.

Many of us are hearing from producers and lenders for guidance on what to plan for in terms of assistance this year. This bill makes clear we stand ready to again support our producers if we cannot complete the new bill in time for 2002 crops, which I hope we can do. I urge support for this legislation.

By Ms. COLLINS (for herself and Ms. LANDRIEU):

S. 2042. A bill to expand access to affordable health care and to strengthen the health care safety net and make health care services more available in rural and underserved areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with my good friend and colleague, the Senator from Louisiana, MARY LANDRIEU, in introducing the Access to Affordable Health Care Act. This is a comprehensive seven-point plan that builds on the strengths of our current programs, both public and private, to make quality affordable health care available to millions more Americans.

One of my top priorities in the Senate has been to expand access to affordable health care to all Americans. There are still far too many people in our country without health insurance or with woefully inadequate coverage. An estimated 39 million Americans do not have health care insurance, including more than 150,000 in my home State of Maine.

The fact is, health insurance matters. The simple fact is that people with health insurance are healthier than those who lack coverage. People without health insurance are less likely to seek care when they need it and tend to forgo services such as periodic checkups and preventative services. As a consequence, they are far more likely to be hospitalized or to require costly medical attention for conditions that could have been prevented or cured if caught at an early stage.

Not only does this put the health of these individuals at greater risk, but it also puts additional pressure on our already financially challenged hospitals and emergency rooms. Compared with people who have health insurance coverage, uninsured adults are four times and uninsured children five times more likely to use a hospital emergency room. The costs of care for these individuals are often absorbed by providers and then passed on to covered individuals through increased fees and higher insurance premiums.

Maine is in the midst of a growing health insurance crisis. Insurance premiums are rising at alarming rates. Whether I am talking to a self-employed fisherman or the owner of a struggling small business or the human resources manager of a large corporation, the cost of health insurance is a common concern.

In 1999, the average family premium for employer-based coverage in Maine was more than \$6,000, the 14th highest in the Nation at that time. Since then, Maine employers have faced premium increases of as much as 40 percent a year. In fact, my own brother called me recently to tell me that his small business is faced with a 40-percent increase in health insurance premiums on top of a 30-percent increase the year before.

These premium increases are particularly burdensome for smaller businesses, the backbone of Maine's economy. Many small business owners are caught in a real squeeze. They know if they pass on the premium increase to their employees, then more and more employees will be forced to decline coverage and, thus, will be completely uninsured, and yet these small employers simply cannot continue to absorb premium increases of 20 to 30 to 40 percent year after year.

The problem of rising costs is even more acute for individuals and families who must purchase health insurance on their own. Anthem Blue Cross/Blue Shield, the single remaining carrier in Maine's nongroup market, has increased its rates by 40 percent over the past 2 years. Monthly insurance premiums often exceed the family's monthly mortgage payments. It is no wonder that more than 150,000 Mainers are now uninsured. Clearly, we simply must do more to make health insurance more affordable and more available.

The Access to Affordable Health Care Act, which Senator LANDRIEU and I are introducing today, is a 7-point plan that combines a variety of public and private approaches to make quality health care coverage more affordable.

The legislation's seven goals are: One, to expand access to affordable health care for small businesses; two, to make health insurance more affordable for individuals and families purchasing coverage on their own; three, to strengthen the health care safety net for those who lack coverage; four, to expand access to care in rural and underserved areas; five, to increase ac-

cess to affordable long-term care; six, to promote healthier lifestyles, and seven, to provide more equitable Medicare payments to Maine providers to reduce the Medicare shortfall.

This shortfall, this lack of fair reimbursement for Medicare services, has forced hospitals, physicians, and other providers to shift costs on to other payers in the form of higher charges. That drives up the cost of health insurance, and it is one of the reasons that Maine's rates are higher than the insurance rates in most other States.

I will discuss each of these seven points in more detail. First, expanding access for small businesses, this legislation builds upon a bill I introduced with Senator LANDRIEU last year to help small employers cope with rising health care costs. Since most Americans get their health insurance through their employers, it is a common assumption that people without health insurance are unemployed, but that is not accurate. The fact is most uninsured Americans are members of families with at least one full-time worker.

As many as 82 percent of Americans without health insurance are in a family with a full-time worker. Uninsured working Americans are most often the employees of small businesses. In fact, some 60 percent of uninsured workers are employed by small firms. Smaller firms generally face higher costs for health insurance than larger companies, which makes them less likely to offer coverage.

I know from my conversations with small businesses all over Maine that they want to offer health insurance as a benefit for their employees. They know it would help them to attract and retain good workers. The only reason these small businesses are not offering health insurance is a simple one: They simply cannot afford the premium costs.

The legislation we are introducing today will help small businesses cope with rising costs by providing new tax credits for them to make health insurance more affordable. It will encourage those small businesses who are now offering health insurance to continue to do so in the face of escalating premiums. It will encourage them to make the decision not to drop coverage, and it will prompt small employers who want to provide this coverage but have found it financially out of reach, to now offer this important benefit.

The legislation will also help to increase the clout of small businesses in negotiating with insurers. Premiums are generally higher for smaller businesses because they do not have as much purchasing power as large companies. This limits their ability to bargain for lower rates. They also tend to have higher administrative costs than larger companies because they have fewer employees among whom to spread the fixed costs of a health insurance plan.

Moreover, they are not able to spread the risks of medical claims over as

many employees as large firms. The legislation we are introducing will help address these problems by authorizing Federal grants to provide start-up funding to States to assist them with the planning, development, and operation of small employer purchasing cooperatives.

I am not talking about association health plans, which are controversial for a number of reasons. I am talking about small employer purchasing cooperatives. They will help to reduce the costs of health insurance for small employers by allowing them to band together to purchase insurance jointly.

Group purchasing cooperatives have a number of advantages for smaller employers. They will, for example, bring an increased number of participants into the group and that helps to lower the premium costs. They also decrease the risk of adverse selection. Our legislation would also authorize a Small Business Administration grant program for States, local governments, and nonprofits to provide information about the benefits of health insurance to smaller employers, including the tax benefits, the increased productivity of employees and decreased turnover. Grants would be used to make employers aware of their current rights under State and Federal laws.

For example, one survey showed that 57 percent of small employers did not realize they could deduct 100 percent of the costs of their health insurance premiums as a business expense.

The legislation that Senator LANDRIEU and I are introducing would also create a new program to encourage innovation by awarding demonstration grants in up to 10 States to look at innovative coverage expansion such as alternative group purchasing or pooling arrangements, individual or small group market reforms, or subsidies to employers or individuals purchasing coverage.

The States have been the laboratories of reform. For example, some States have looked at providing assistance to employees to help them afford their share of an employer-provided insurance plan.

Second, the Access to Affordable Health Care Act will help expand access to affordable health care for individuals and families who are purchasing coverage on their own. It would, for example, allow self-employed Americans to deduct the full amount of their health care premiums retroactive to January 1 of this year.

Some 25 million Americans are in families headed by a self-employed individual, and of these 5 million are uninsured. So if we establish parity in the tax treatment for health insured costs between the self-employed and those working for large corporations, we will promote equity, and we will help to reduce the number of uninsured by working Americans.

Another step this bill would take would build on the success of the State children's health insurance program,

one of the very first bills I sponsored as a Senator. This program provides insurance for children of low-income families who cannot afford health insurance and yet earn too much money to qualify for Medicaid.

We are proposing that we allow, as Senator KENNEDY's family care bill would, the option for States to cover the parents of children who are enrolled in programs like Maine's MaineCare program. States could also use funds provided through this program to help eligible working families pay their share of an employer-based health insurance plan. In short, this legislation will help ensure low-income working families receive the health care they need.

Another provision of the bill would allow States to expand coverage to eligible legal immigrants through the Medicaid and SCHIP programs. Maine is one of a number of States that is already covering eligible legal immigrants, pregnant women, and children under Medicaid using 100 percent State dollars. Giving States the option of covering these children and families under Medicaid will enable them to receive Federal matching funds.

Another provision of the bill would give States the option of extending Medicaid to childless adults below 125 percent of the Federal poverty level who cannot afford private insurance and who have been forgotten or overlooked by other public programs. Maine has applied for a waiver to expand its Medicaid Program in this way, and the State estimates this will provide health coverage to an estimated 16,000 low-income uninsured Mainers.

Many people with serious health problems encounter difficulties in finding a company that is willing to insure them. To address this problem, the Collins-Landrieu bill authorizes Federal grants to provide money for States to create high-risk pools through which individuals who have preexisting health conditions can obtain affordable health insurance.

Finally, the legislation in this section would provide an advanceable, refundable tax credit of up to \$1,000 for individuals earning up to \$30,000, and up to \$3,000 for families earning up to \$60,000.

This provision, which is similar to that proposed by President Bush, would help to provide coverage for up to 6 million Americans who otherwise would be uninsured for 1 or more months. It will help many more working lower income families who currently purchase private health insurance with little or no government help and finding it increasingly difficult to do so.

Third, the Access to Affordable Health Insurance Act will help to strengthen our Nation's health care safety net by doubling funding over the next 5 years for community health centers. We want to make sure we are reaching individuals who are homeless, individuals who are migrant workers,

individuals who are living in public housing. These centers, which operate in underserved rural and urban communities, provide critical primary care services to millions of Americans, regardless of their ability to pay. About 20 percent of the patients treated at Maine's community health centers have no insurance coverage. Many more have inadequate coverage. These community health centers play a critical role in providing a health care safety net for some of our most vulnerable individuals.

The problem of access to affordable health care services is not limited to the uninsured. It is also shared by many Americans living in rural and underserved areas where there is a serious shortage of health care providers. The legislation we are introducing, therefore, includes a number of provisions to strengthen the National Health Service Corps, which supports doctors, dentists, and other clinicians who serve in rural and inner-city areas.

For example, taxing students adversely affects their financial incentive to participate in the National Health Service Corps and provide health care services in underserved communities. Last year's tax bill provided a tax deduction for National Health Service Corps scholarship recipients to deduct all tuition, fees, and related educational expenses from their income taxes. The deduction did not extend to loan repayment recipients however, so loan repayment amounts are still taxed as income. Participants in the loan repayment program are actually given extra payment amounts to help them cover their tax liability which, frankly, is a little ridiculous. It makes much more sense to simply exempt them from taxation in the first place.

In addition, the legislation will allow National Health Service Corps participants to fulfill their commitment on a part-time basis. Current law requires all National Health Service Corps participants to serve full time. Many rural communities, however, simply do not have enough volume to support a full-time health care practitioner. Moreover, some sites may not need a particular type of provider—for example, a dentist—on a full-time basis. Some practitioners may also find part-time service more attractive, which, in turn, could improve recruitment and retention. Our bill will therefore give the program additional flexibility to meet community needs.

Long-term care is the major catastrophic health care expense faced by older American today, and these costs will only increase with the aging of the baby boomers. Most Americans mistakenly believe that Medicare or their private health insurance policies will cover the costs of long-term care should they develop a chronic illness or cognitive impairment like Alzheimer's Disease. Unfortunately, far too many do not discover that they do not have coverage until they are confronted with the difficult decision of placing a

much-loved parent or spouse in long-term care and facing the shocking realization that they will have to cover the costs themselves.

The Access to Affordable Health Care Act will provide a tax credit for long-term care expenses of up to \$3,000 to provide some help to those families struggling to provide long-term care to a loved one. It will also encourage more Americans to plan for their future long-term care needs by providing a tax deduction to help them purchase private long-term insurance.

Health insurance alone is not going to ensure good health. As noted author and physician Dr. Michael Crichton has observed, "the future of medicine lies not in treating illness, but preventing it." Many of our most serious health problems are directly related to unhealthy behaviors—smoking, lack of regular exercise, and poor diet. These three major risk factors alone have made Maine the State with the fourth highest death rate due to four largely preventable disease: Cardiovascular disease, cancer, chronic lung disease and diabetes. These four chronic diseases are responsible for 70 percent of the health care problems in Maine.

Our bill therefore contains a number of provisions designed to promote healthy lifestyles. An ever-expanding body of evidence shows that these kinds of investment in health promotion and prevention offer returns not only in reduced health care bill, but in longer life and increased productivity. The legislation will provide grants to States to assist small businesses wishing to establish "work-site wellness" programs for their employees. It would also authorize a grant program to support new and existing "community partnerships," such as the Healthy Community Coalition in Franklin County, to promote healthy lifestyles among hospitals, employers, schools and community organizations. And, it would provide funds for States to establish or expand comprehensive school health education, including, for example, physical education programs that promote lifelong physical activity, healthy food service selections, and programs that promote a healthy and safe school environment.

And finally, the Access to Affordable Health Care Act would promote equity in Medicare payments and help to ensure that the Medicare system rewards rather than punishes States like Maine that deliver high-quality, cost effective Medicare services to our elderly and disabled citizens.

According to a recent study in the Journal of the American Medical Association, Maine ranks third in the nation when it comes to the quality of care delivered to our Medicare beneficiaries. Yet we are 11th from the bottom when it comes to per-beneficiary Medicare spending.

The fact is that Maine's Medicare dollars are being used to subsidize higher reimbursements in other parts of the country. This simply is not fair.

Medicare's reimbursement systems have historically tended to favor urban areas and failed to take the special needs of rural States into account. Ironically, Maine's low payment rates are also the result of its long history of providing high-quality, cost-effective care. In the early 1980s, Maine's lower than average costs were used to justify lower payment rates. Since then, Medicare's payment policies have only served to widen the gap between low and high-cost States.

As a consequence, Maine's hospitals, physicians, and other providers have experienced a serious Medicare shortfall, which has forced them to shift costs on to other payers in the form of higher charges. The Medicare shortfall is one of the reasons that Maine has among the highest health insurance premiums in the Nation. The provisions in the Access to Affordable Health Care Act provide a complement to legislation that I introduced earlier this year with Senator RUSS FEINGOLD to promote greater fairness in Medicare payments to physicians and other health professionals by eliminating outdated geographic adjustment factors that discriminate against rural areas.

Mr. President, the Access to Affordable Health Care Act outlines a blueprint for reform based upon principles upon which I believe a bipartisan majority in Congress could agree. The plan takes significant strides toward the goal of universal health care coverage by bringing million more Americans into the insurance system, by strengthening the health care safety net, and by addressing the inequities in the Medicare system.

By Mr. ROCKEFELLER:

S. 2043. A bill to amend title 38, United States Code, to extend by five years the period for the provision by the Secretary of Veterans Affairs of noninstitutional extended care services and required nursing home care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, today I introduce legislation to improve VA's response to meeting the long-term care needs of an aging veteran population. Specifically, the bill would extend two long-term care authorities of the Veterans Millennium Health Care and Benefits Act of 1999.

In November of 1999, Congress passed comprehensive long-term care legislation for veterans. For the first time, VA was required to provide extended care services to enrolled veterans. Section 101 of Public Law 106-117, directed the VA to provide nursing home care to any veteran who is in need of such care for a service-connected condition, or who is 70 percent or more service-connected disabled. In addition, VA was to have provided non-institutional care, such as home-based care, respite, and adult day health care, to all enrolled veterans. Within 3 years of the bill's enactment, VA was to evaluate and re-

port to the House and Senate Committees on Veterans' Affairs on its experience in providing services under both of these provisions and to make recommendations on extending or making permanent these provisions. These programs were given an expiration date of 4 years so that we could adequately study its effects and, if need be, make appropriate adjustments.

Unfortunately, it's been more than two years and very little has happened with these long-term care programs. With both provisions due to expire next year, there is hardly enough time to sufficiently study them. The legislation I introduce today will extend the expiration dates of both long-term care authorities for an additional 5 years, until December 31, 2008.

I am extremely disappointed that the VA has taken so long to bring these new extended care authorities into the lives of veterans. Although there is a sense of urgency about meeting the long-term care needs of veterans, the VA seems frozen to respond.

In addition to mandating that VA provide nursing home care to any veteran who is in need of such care for a service-connected condition, or who is 70 percent or more service-connected disabled, the Veterans Millennium Health Care and Benefits Act required the VA to maintain the staffing and level of extended care during any fiscal year at the same level that was provided in fiscal year 1998. Unfortunately, both the staffing level for nursing home care and the average daily census has dropped since 1998, and VA readily admits that they are not in compliance with this mandate, citing a lack of resources.

In addition to providing nursing home care, a key element of the Millennium bill required VA to furnish non-institutional long-term care as part of the standard benefits package. While the bill was signed into law at the end of 1999, it was just last October that VA finally issued interim guidance on the new benefit. The policy was essentially meaningless, in that it required facilities to either have these non-institutional long-term care services available or to develop a plan for providing such services. As a result, I suspect that many facilities have not yet made non-institutional services universally available. In order to confirm this, I have asked that the General Accounting Office provide me with information as to what inventory of noninstitutional long-term care programs exists within VA. The GAO's report should be completed shortly.

We know that there is an expanding need for long-term care in our country, and in the VA that demand is even more pressing. About 37 percent of the veteran population is 65 years or older, and that number will grow dramatically in the next few years. By extending the existing long-term care authorities, we signal to VA that they cannot shirk this responsibility.

There is no doubt that long-term care is expensive. It is our responsi-

bility, however, to make sure that the necessary resources are provided to VA to implement existing long-term care programs. For my part, I will continue to push VA to move forward, and in the near future, I will be chairing a Committee hearing to learn more about VA's inaction.

Long-term care should be seen as a part of the continuum of quality health care we have promised our veterans. The point of this legislation is to extend two important VA long-term care authorities, and I urge all of my Senate colleagues to support it.

By Mr. ROCKEFELLER:

S. 2044. A bill to provide for further improvement of the program to expand and improve the provision of specialized mental health services to veterans; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce legislation today to ensure that veterans who struggle with post-traumatic stress and substance use disorders continue to get the care that they need and deserve. This legislation would increase the funding for an already-established grant program for specialized mental health services programs. In addition, the legislation would guarantee that some funding would go to those facilities which need it the most but, for whatever reason, have not sought grants.

From its inception, the VA health care system has been challenged to meet the special needs of veterans, such as spinal cord injuries, the need for prosthetics, blindness, traumatic brain injury, homelessness, post-traumatic stress disorders or PTSD, and the substance abuse disorders that frequently accompany these other afflictions. Over the years, VA has developed widely commended expertise in providing specialized services to meet these needs. We can all be rightfully proud of VA's specialized programs, which provide care that is often unparalleled in the greater health care community.

Unfortunately, these programs have been endangered by budget constraints, a shift in focus from inpatient care to outpatient clinics, and the introduction of a new resource allocation system. In 1996, Congress recognized that VA's constant battle to serve more veterans with a limited budget made these relatively costly specialized services programs disproportionately vulnerable to reductions, and took steps to protect them. The Veteran's Health Care Eligibility Reform Act of 1966 required the Secretary of Veterans Affairs to maintain VA's capacity to treat specific special needs of disabled veterans at the then-current level, and to report to Congress annually on the maintenance of these specialized services.

Subsequently, internal VA advisory committees, the GAO, and my own staff on the Committee on Veterans'

Affairs reported that these protections did not go far enough. Many specialized programs—particularly substance abuse and PTSD treatment programs, were closed, reduced in size, or understaffed, offering little or no care to veterans suffering from these seriously debilitating disorders which often result from combat experiences.

VA's own annual capacity reports give evidence that these programs have failed to provide services to veterans at the needed levels, or to preserve equal access throughout the system. However, the current law's reliance on systemwide, rather than local or regional capacity, and VA's failure to issue these reports on a timely basis as mandated, prevent us from understanding how well these programs meet veterans' needs throughout the Nation.

In December 2001, Congress strengthened protection of specialized services through the VA Health Care Programs Enhancement Act, which described how VA is to maintain capacity for these services in considerably more detail. However, I believe that we must continue to do what we can to foster innovation and to patch some of the holes in substance abuse and PTSD programs.

In addition to protecting VA's capacity to treat veterans' special needs, Congress also designated \$15 million in VA funding specifically to help medical families improve care for veterans with substance abuse disorders and PTSD. The funds for these mental health grant programs, mandated by the Veterans Millennium Benefits and Health Care Act of 1999, will soon revert to a general fund.

In order to distribute these funds, VA sought proposals from facilities interested in expanding and improving their substance use disorder and PTSD programs. VA began to release these funds a little more than a year ago. As of this month, only 8 of the 16 PTSD treatment programs awarded funding had become operational, and only a third of these have hired their full complement of authorized and funded staff. Of the substance abuse disorder programs funded through this act, 18 of 31 have not yet hired complete staffs.

Despite the slow start, this funding has already increased the PTSD and substance abuse disorder treatment programs available to veterans. More than 100 staff have been hired in 18 of VA's 21 service networks to treat substance abuse disorders. Nine new programs, in Baltimore, MD; Atlanta, GA; San Francisco, CA; and Dayton, OH, among others, have initiated or intensified opioid substitution programs for veterans who have not responded well to drug-free treatment regimens. Other new programs, such as those in Tampa, FL; Cincinnati, OH; Columbia, MO; and Loma Linda, CA, put special emphasis on treating veterans with more complex conditions that include PTSD and substance abuse. The additional funding has enabled VA to develop better outpatient substance abuse and PTSD

treatment programs, outpatient dual-diagnosis programs, more PTSD community clinical teams, and more residential substance abuse disorder rehabilitation programs.

Due to these grants, VA has made improvements; however, many VA medical center directors have been reluctant to hire specialized substance abuse or PTSD treatment staff when, in FY 2003, the funding for these programs will be subject to a population-based allocation system and may disappear from their budgets. The legislation that I introduce today would ensure that this funding remained "protected" for three more years, and would increase the total amount of funding identified specifically for treatment of substance abuse disorders and PTSD from \$15 million to \$25 million.

Of the \$25 million authorized for this program, \$15 million would be allocated to individual medical facilities which respond to the call for proposals. The remaining \$10 million would be provided as direct grants to VA treatment facilities throughout the Nation, based on veterans' needs as identified by VA's Mental Health Strategic Health Care Group and the Committee on Care of the Severely Chronically Mentally Ill.

Although I am disappointed that VA has still been unable to properly maintain adequate levels of care for those veterans with specialized health care needs, I am encouraged that our actions to fund specific PTSD and substance abuse programs have provided a strong start.

Congress has spoken quite clearly in the past: VA does not have the discretion to decide whether or not to provide adequate care for veterans with substance abuse and post traumatic stress disorders. I ask that my colleagues support this bill, which would help ensure that these specialized services, a critical aspect of the health care VA provides to veterans, are maintained at the necessary levels for the men and women who have served this Nation.

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

S. 2045. A bill to amend the Foreign Assistance Act of 1961 to take steps to control the growing international problem of tuberculosis; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, today, Senator SMITH and I are proud to introduce the International Tuberculosis Control Act of 2002. This bill will provide \$200 million during each of the next three years for U.S. efforts to combat international TB.

Our bill also sets as a goal the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected by the end of 2005 for those countries with the highest tuberculosis burden.

Why is this bill important? Consider the facts: Tuberculosis kills 2 million

people each year; someone in the world is newly infected with TB every second; nearly one percent of the world's population is newly infected with TB each year; TB is the single leading cause of death among women between the age of 15-44; and half of all people living with HIV-AIDS will develop TB because of suppressed immune systems.

TB is an airborne disease. You can get it when someone coughs or sneezes. And with the increased immigration and travel to the United States, we are seeing it re-emerge in many of our communities. That is why it is in the national interest here in the United States to fight TB throughout the world.

This is especially true when you consider that in the year 2000, 46 percent of TB cases detected in the U.S. occurred to foreign-born persons, up from 22 percent in 1986. In California, of the 3,297 cases detected in 2000, 72 percent were among foreign born individuals.

Two years ago, Senator SMITH and I teamed up to triple TB funding and get the authorization level up to \$60 million. We are teaming up again so that USAID can work with its international partners like the World Health Organization to expand the most effective program to stop the spread of TB—DOTS or Directly Observed Treatment Short-Course.

DOTS is so effective because it reduces the chance of Multi-Drug Resistant TB from developing. In the early 1990s, New York City spent nearly \$1 billion to control an outbreak of drug-resistant TB. However, a 6-month course of TB drugs under the DOTS programs can cost just \$10.

That is why we feel that our bill is a wise investment that will reduce the cost of treating TB over the long run and, most important, save lives throughout the world.

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. 2045

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 "International Tuberculosis Control Act of 2002".

SEC. 2. FINDINGS.

Congress finds that:

(1) Tuberculosis is a great health and economic burden to impoverished nations and a health and security threat to the United States and other industrialized countries.

(2) Tuberculosis kills 2,000,000 people each year (a person every 15 seconds) and is second only to HIV/AIDS as the greatest infectious killer of adults worldwide.

(3) Tuberculosis is today the leading killer of women of reproductive age and of people who are HIV-positive.

(4) One-third of the world's population is currently infected with the tuberculosis bacterium, including 10,000,000 through 15,000,000 persons in the United States, and someone in the world is newly infected with tuberculosis every second.

(5) With 46 percent of tuberculosis cases in the United States in the year 2000 found in foreign-born persons, as compared to 24 percent in 1990, it is clear that the only way to control tuberculosis in the United States is to control it worldwide.

(6) Left untreated, a person with active tuberculosis can infect an average of 10 through 15 people in one year.

(7) Pakistan and Afghanistan are among the 22 countries identified by the World Health Organization as having the highest tuberculosis burden globally.

(8) More than one-quarter of all adult deaths in Pakistan are due to tuberculosis, and Afghan refugees entering Pakistan have very high rates of tuberculosis, with refugee camps, in particular, being areas where tuberculosis runs rampant.

(9) The tuberculosis and AIDS epidemics are inextricably linked. Tuberculosis is the first manifestation of AIDS in more than 50 percent of cases in developing countries and is responsible for 40 percent or more of deaths of people with AIDS worldwide.

(10) An effective, low-cost cure exists for tuberculosis: Directly Observed Treatment Short-course or DOTS. Expansion of DOTS is an urgent global priority.

(11) DOTS is one of the most cost-effective health interventions available today. A full course of DOTS drugs costs as little as US\$10 in low-income countries.

(12) Proper DOTS treatment is imperative to prevent the development of dangerous multidrug resistant tuberculosis (MDR-TB) that arises through improper or incomplete tuberculosis treatment.

(13) The Global Fund to fight AIDS, Tuberculosis, and Malaria is an important new global partnership established to combat these 3 infectious diseases that together kill 6,000,000 people a year. Expansion of effective tuberculosis treatment programs should constitute a major component of Global Fund investment.

SEC. 3. DEFINITIONS.

In this Act:

(1) DOTS.—The term “DOTS” or “Directly Observed Treatment Short-course” means the World Health Organization-recommended strategy for treating standard tuberculosis.

(2) GLOBAL ALLIANCE FOR TUBERCULOSIS DRUG DEVELOPMENT.—The term “Global Alliance for Tuberculosis Drug Development” means the public-private partnership that brings together leaders in health, science, philanthropy, and private industry to devise new approaches to tuberculosis and to ensure that new medications are available and affordable in high tuberculosis burden countries and other affected countries.

(3) GLOBAL PLAN TO STOP TUBERCULOSIS.—The term “Global Plan to Stop Tuberculosis” means the plan developed jointly by the Stop Tuberculosis Partnership Secretariat and Partners in Health that lays out what needs to be done to control and eliminate tuberculosis.

(4) GLOBAL TUBERCULOSIS DRUG FACILITY.—The term “Global Tuberculosis Drug Facility (GDF)” means the new initiative of the Stop Tuberculosis Partnership to increase access to high-quality tuberculosis drugs to facilitate DOTS expansion.

(5) STOP TUBERCULOSIS PARTNERSHIP.—The term “Stop Tuberculosis Partnership” means the partnership of the World Health Organization, donors including the United States, high tuberculosis burden countries, multilateral agencies, and nongovernmental and technical agencies committed to short- and long-term measures required to control and eventually eliminate tuberculosis as a public health problem in the world.

SEC. 4. ASSISTANCE FOR TUBERCULOSIS PREVENTION, TREATMENT, CONTROL, AND ELIMINATION.

Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended by adding at the end the following:

“(7)(A) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those countries that had previously largely controlled the disease. Congress further recognizes that the means exist to control and treat tuberculosis by implementing the Global Plan to Stop Tuberculosis and by adequately investing in newly created mechanisms, including the Global Tuberculosis Drug Facility, and that it is therefore a major objective of the foreign assistance program to control the disease. To this end, Congress expects the agency primarily responsible for administering this part—

“(i) to coordinate with the World Health Organization, the Centers for Disease Control, the National Institutes of Health, and other organizations with respect to the development and implementation of a comprehensive tuberculosis control program; and

“(ii) to set as a goal the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, by December 31, 2005, in those countries classified by the World Health Organization as among the highest tuberculosis burden, and by December 31, 2010, in all countries in which the agency has established development programs.

“(B)(i) There is authorized to be appropriated \$200,000,000 for each of the fiscal years 2003 through 2005 for carrying out this paragraph.

“(ii) Funds appropriated under this paragraph are authorized to remain available until expended.

“(C) In carrying out subparagraph (A), not less than 75 percent of the amount authorized to be appropriated under subparagraph (B) shall be expended for antituberculosis drugs, supplies, patient services, and training in diagnosis and care, in order to increase directly observed treatment shortcourse (DOTS) coverage, including funding for the Global Tuberculosis Drug Facility.

“(D) In carrying out subparagraph (A), of the amount authorized to be appropriated under subparagraph (B)—

“(i) not less than 10 percent shall be used for funding of the Global Tuberculosis Drug Facility;

“(ii) not less than 7.5 percent shall be used for funding of the Stop Tuberculosis Partnership; and

“(iii) not less than 2.5 percent shall be used for funding of the Global Alliance for Tuberculosis Drug Development.

“(E) The President shall submit a report to Congress annually specifying the increases in the number of people treated and the increases in number of tuberculosis patients cured through each program, project, or activity receiving United States foreign assistance for tuberculosis control purposes.”.

Mr. SMITH of Oregon. Mr. President, I am pleased to again join my colleague Senator BOXER in introducing important tuberculosis control legislation today on the floor of the Senate. Today we are introducing The International Tuberculosis Control Act—this important legislation is designed to address the growing international problem of tuberculosis, (TB). We are introducing this legislation to coincide with World Tuberculosis Day, this Sunday, March 24. World TB Day is an occasion for countries around the world

to raise awareness about the threat to the world's health caused by tuberculosis.

As many of us know TB is a global health crisis. Over two million people will die from TB this year, and it is the leading killer of young women and of people with AIDS worldwide. Further, TB anywhere is a threat everywhere in our highly mobile world. The Center for Disease Control CDC reports that in the year 2000, nearly 50 percent of all TB cases in the US occurred in foreign-born persons. We will not be safe from TB until we control the disease globally.

TB and HIV form a deadly co-epidemic. TB is responsible for more than 40 percent of all AIDS deaths worldwide. An HIV-positive person is 30 times more likely to develop active tuberculosis and become infectious to others. Many countries in sub-Saharan Africa have seen TB rates increase 4-fold due to the HIV-TB co-epidemic, decimating a whole generation of adults in many communities. In Eastern Europe and Asia, TB infection is widespread and HIV rates are rising rapidly. These areas are poised to see the TB-HIV co-epidemic explode.

TB also flourishes in and causes poverty. About 98 percent of the annual deaths from TB are in poor countries. Those who fall ill are often their family's primary breadwinner. When that person cannot work, children must often leave school to work or care for a sick relative. The World Health Organization reported in 2000 that 75 percent of TB patients are men and women between the ages of 15-54, the most economically productive years of life. Stopping TB will help fight poverty.

I strongly believe we must act to control TB now or pay later. Rising drug resistance is a time bomb that could make TB virtually uncontrollable. Multi-drug resistant TB is far more dangerous and difficult to treat, can cost up to \$1 million per patient to cure, and kills over half of its victims, even in the U.S.

There is a plan for controlling TB. The new, internationally agreed-upon “Global Plan to Stop TB” provides a much-needed roadmap. It describes the resources needed, country-by-country, to meet international TB control targets by 2005. Complementary National TB control plans exist for nearly all of the 22 high-burden TB countries.

The world must invest less than \$1 billion in additional funds per year to control TB, about what New York City spent to control an outbreak of drug-resistant TB in the early 1990s! And I believe that \$200 million is a reasonable US share of the \$1 billion needed globally to control this killer.

We have the tools to stop TB. “The Global Plan to Stop TB” is built around expanding access to DOTS treatment worldwide, a proven, and very cost-effective treatment system that uses just \$10 worth of drugs to cure a patient in 6 months. Currently

just one in four of those who needs DOTs have access to it. Another tool for fighting TB is the new Global TB Drug Facility, which can provide the steady supply of affordable drugs needed to cure patients and prevent the further spread of drug-resistance.

My colleague, BARBARA BOXER, and I have been leading the way (along with Foreign Operations Chairman PATRICK LEAHY and Ranking Senator MITCH MCCONNELL) in increasing US funding for international TB control, from virtually zero in 1997 to \$75 million in 2002. The President's 2003 Budget proposes to cut TB funding by one-third, but I feel that we must do more in this area, not less. Just \$200 million annually from the U.S. would save tens of thousands of lives around the world and would protect US citizens from TB and from the growing threat of drug-resistant TB. Investing in TB control is not only the right thing to do; it is a wise U.S. investment.

By Mr. CRAIG:

S. 2046. A bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAIG. Mr. President, I rise today to introduce the Rural Health Care Facility Improvement Act.

Traveling throughout my State of Idaho, I have heard from many people about the need for additional funding to keep rural health facilities operational and up-to-date. After doing further research, I have found that this is true in all States in virtually all rural areas. For this reason, I am introducing the Rural Health Care facility Improvement Act.

This bill would allow for \$250,000,000 million in guaranteed loans to be available to rural health care facilities. Individual facilities could borrow up to \$5,000,000 to be used for two purposes. First, to allow for capital improvements to their facility and equipment and second, to allow for the purchase of high-technology equipment.

Providing health care services to much of rural America has become increasingly difficult in recent years. During the 1970s, rural communities thrived with economic expansion and unprecedented population growth. Rural health providers represented valuable institutions offering an array of medical services to their communities. Now many of these rural communities are struggling to maintain critical health care facilities.

We all know that rural health care facilities are a vital part of the infrastructure of rural communities and the collapse of health care services in many areas often contributes to the further decline of rural communities. That's why it is so important to make sure that rural facilities have access to funds to keep them operational.

In the 1990's, rural health care providers have begun to rally in the face

of this challenge. They have developed creative ways to meet the needs of their communities with their limited resources. This legislation is one more way to help those who are working to guarantee health care in rural America.

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. 2046

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 "Rural Health Care Facility Improvement Act of 2002".

SEC. 2. GUARANTEED LOANS FOR RURAL HEALTH FACILITIES.

Title VI of the Public Health Service Act (42 U.S.C. 291 et seq.) is amended by adding at the end the following:

"PART E—RURAL HEALTH FACILITIES

"SEC. 651. GUARANTEED LOANS FOR RURAL HEALTH FACILITIES.

"(a) AUTHORIZATION OF LOAN GUARANTEES.—

"(1) ESTABLISHMENT.—The Secretary is authorized to establish a program under which the Secretary may guarantee 100 percent of the principal and interest on loans made by non-Federal lenders to rural health facilities to pay for the costs of—

"(A) buying new or repairing existing infrastructure; and

"(B) buying new or repairing existing technology.

"(2) TOTAL LOAN AMOUNT AVAILABLE.—The Secretary is authorized to guarantee not more than—

"(A) \$250,000,000 in the aggregate of the principal and interest on loans for rural health facilities under paragraph (1); and

"(B) \$5,000,000 of the principal and interest on loans under paragraph (1) for each rural health facility.

"(b) PROTECTION OF FINANCIAL INTERESTS.—The Secretary may not approve a loan guarantee under this section unless the Secretary determines that—

"(1) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any rural health facility asset that is, or may be, needed by the rural health facility involved to provide health services;

"(2) the loan would not be available on reasonable terms and conditions without the guarantee under this section; and

"(3) amounts appropriated for the program under this section are sufficient to provide loan guarantees under this section.

"(c) RECOVERY OF PAYMENTS.—

"(1) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining avail-

able to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this section shall be credited as reimbursements to the financing account of the program established under this section.

"(2) MODIFICATION OF TERMS AND CONDITIONS.—To the extent permitted by paragraph (3) and subject to the requirements of section 504(e) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (4)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

"(3) INCONTESTABILITY.—Any loan guarantee made by the Secretary under this section shall be incontestable—

"(A) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

"(B) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(4) FURTHER TERMS AND CONDITIONS.—Guarantees of loans under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

"(d) DEFAULTS.—

"(1) IN GENERAL.—Subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this section, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a rural health facility shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

"(2) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this section, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with subsection (b).

"(e) NONAPPLICATION OF PART D.—The provisions of part D shall not apply to this part.

"(f) DEFINITIONS.—In this part:

"(1) NON-FEDERAL LENDER.—The term 'non-Federal lender' means any entity other than an agency or instrumentality of the Federal Government authorized by law to make such loan, including a federally insured bank, a lending institution authorized or licensed by the State in which it resides to make such loans, and a State or municipal bonding authority or such authority's designee.

“(2) RURAL AREA.—The term ‘rural area’ has the meaning given the term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

“(3) RURAL HEALTH FACILITY.—The term ‘rural health facility’ includes—

“(A) rural health clinics (as defined in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)));

“(B) critical access hospitals (as defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1))) that are located in rural areas;

“(C) hospitals (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e))) that are located in rural areas;

“(D) skilled nursing facilities (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a))) that are located in rural areas;

“(E) health centers (as defined in section 330) that are located in rural areas;

“(F) federally qualified health centers (as defined in section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3))); and

“(G) nursing homes (as defined in section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e))) that are located in rural areas.”.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUE, Mr. BREAU, Mr. NELSON of Florida, and Mrs. FEINSTEIN):

S. 2048. A bill to regulate interstate commerce in certain devices by providing for private sector development of technological protection measures to be implemented and enforced by Federal regulations to protect digital content and promote broadband as well as the transition to digital television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise along with Senators STEVENS, INOUE, BREAU, NELSON, and FEINSTEIN to introduce the Consumer Broadband and Digital Television Promotion Act of 2002, legislation that will promote broadband and the digital television transition by securing content on the Internet and over the Nation's airwaves.

For several years the private sector has attempted to secure a safe haven for copyrighted digital products, unfortunately with little to show for its efforts. The result has been an absence of robust, ubiquitous protections of digital media which has led to a lack of content on the Internet and over the airwaves. And who has suffered the most? Consumers, as they are denied access to high quality digital content in the home.

The reality is that a lack of security has enabled significant copyright privacy which drains America's content industries to the tune of billions of dollars every year. For example, the movie studios estimate that they lose over \$3 billion annually by way of analog piracy. In order to pirate copyrighted movies via analog formats, an individual makes an illegal copy of the movie, sometimes by taping it in a movie theater with a personal video recorder, and then distributes it, in analog form, at discount. However, because subsequent copies of analog mov-

ies degrade over time, there is a limit to the success of this type of piracy.

In a digital age, however, the privacy threat is exponentially magnified. So on the Internet, copyright content, be it a movie, a book, music, or software, travels in a digital language of 1s and 0s, and every copy of that content, from the 1st to the 1000th is as pristine as the original. Also, unlike an analog pirated movie, which must be physically packaged and transported, a digital copy can be sent around the world on the Internet with a single click of a mouse. The copyright industries are justifiably worried about distributing their content on the Internet absent strong copyright protection measures. As Internet access becomes increasingly available over high-speed, broadband connections, these worries will only heighten.

It should be noted, however, that the Internet is not the only threat to unprotected digital content. Digital video programming is also subject to a large privacy threat. Rapid advances in consumer electronics make it easier to steal copyright content. Newly developed digital compression and memory technologies make it possible to store two complete movies on a device the size of a postage stamp. Today, digital media can be transmitted over wired or wireless channels and played and stored on a host of consumer electronics devices. By and large, these are positive developments for consumers.

But any device that can legitimately play, copy, or electronically transmit one or more categories of media also can be misused for illegal copyright infringement, unless special protection technologies are incorporated into such a device. Unfortunately, as technology has advanced, copy protection schemes have not kept pace, fostering a set of consumer expectations that at times actually promote illegal activity on the Internet. For example, according to a Jupiter Media Matrix report, over 7 million Americans use technology on the Internet to swap music and other digital media files. More recent news reports place this number at over 11 million. While some of this activity is legal, much of it is not.

Every week a major magazine or newspaper reports on the thousands of illegal pirated works that are available for copying and redistribution online. Academy award winning motion pictures, platinum records, and Emmy award winning television shows—all for free, all illegal. Piracy is growing exponentially on college campuses and among tech savvy consumers. Such lawlessness contributes to the studios and record labels' reluctance to place their digital content on the Internet or over the airwaves.

At the same time, millions of law abiding consumers find little reason to spend discretionary dollars on consumer electronics products whose value depends on their ability to receive, display and copy high quality digital content like popular movies, music, and

video games. Accordingly, only early adopters have purchased high definition television sets or broadband Internet access, as these products remain priced too high for the average consumer. The facts are clear in this regard. Only two million Americans have purchased HDTV sets. As for broadband, rural and underserved areas aside, there is not an availability problem. There is a demand problem. Roughly 85 percent of Americans are offered broadband in the marketplace but only 10-12 percent have signed up. The fact is that most Americans are averse to paying \$50 a month for faster access to email, or \$2,000 for a fancy HDTV set that plays analog movies. But if more high-quality content were available, consumers might come.

By unleashing an avalanche of digital content on broadband Internet connections as well as over the digital broadcast airwaves, we can change this dynamic and give consumers a reason to buy new consumer electronics and information technology products. To do so requires the development of a secure, protected environment to foster the widespread dissemination of digital content in these exciting new mediums.

Although, it is technologically feasible to provide such a protected environment, the solution has not been forthcoming through voluntary private sector negotiations involving the industries with stakes in this matter. This is not to say, however, that those industries do not recognize the tremendous economic potential to be derived from a proliferation of top notch digital content to consumers in the home. The movie studios, and the rest of the copyright industries, for example, are tremendously excited about the possibility of providing their products to consumers over the Internet and the digital airwaves, provided they can be assured that those products' copyrights are not infringed in the process.

Although marketplace negotiations have not provided such an assurance, a solution is at hand. Leaders in the consumer electronics, information technology, and content industries are America's best and brightest. They can solve this problem. The consumer electronics and high tech industries claim they are ready to do just that. America's top high-tech executives sent me a letter three weeks ago to that effect. While, I want to believe them, industry negotiations have been lagging. Both sides share some blame in this area. But the blame games need to end. It's time for results, not recriminations.

I believe the private sector is capable, through marketplace negotiations—of adopting standards that will ensure the secure transmission of copyrighted content on the Internet and over the airwaves. But given the pace of private talks so far, the private sector needs a nudge. The government can provide that nudge, and in doing so continue the government's longstanding role in promoting, and sometimes requiring, the implementation of

technological standards in electronics equipment to benefit consumers. We debated the merits of such an approach in the Commerce Committee on February 28, 2002 when the leaders of the copyright, consumer electronics, and information technology industries testified as to their distinct views on this issue. At that hearing, every Senator and every witness agreed that the problem of digital piracy requires resolution.

Specifically, our hearing demonstrated that there are three discrete problem areas that merit government intervention. First, is the piracy threat presented toward unprotected digital broadcast television. Over the air broadcast digital signals cannot be encrypted because the millions of Americans who receive their signal via antennas cannot decrypt the signal. As a result, digital broadcast signals are delivered in unprotected format and are subject to illegal copying or redistribution over the Internet upon transmission. The technology exists today to solve this problem. It has been referred to as a "broadcast flag" which would instruct digital devices to prevent illegal copying and Internet retransmission of digital broadcast television. Consumer electronic devices would respond to the technology and prevent copyright infringement. However, because not every device would be required to respond to the technology, ubiquitous response requires a mandate by government.

The second problem is commonly referred to as the "Analog hole." As protected digital programming, usually delivered over satellite or cable, but also available on the Internet, is decrypted for viewing by consumers, most frequently on television sets, the programming is temporarily "in the clear." At this point, pirates may have the opportunity to take advantage of an "Analog hole" by copying the content into a digital format, i.e. re-digitizing it, and then illegally copying and/or retransmitting the content. The technology to solve this problem either exists today, or will be available shortly. Regardless, the solution is technologically feasible. As with the "broadcast flag" the solution to the "Analog hole" will require a government mandate to ensure its ubiquitous adoption across consumer devices.

The final problem poses the greatest threat. Literally millions of digital files of music and videos are illegally copied, downloaded, and transmitted over the Internet on a regular basis. Current digital rights management solutions are insufficient to rectify this problem. Some consumers resorting to illegal behavior do so unknowingly. Many others do so willingly. Regardless, consumers desire high-quality digital content on the Internet and it is not being provided in any widespread, legal fashion. Fortunately, a solution to this problem is also technologically feasible. It too will require government action, including a mandate to ensure its swift and ubiquitous adoption.

While industries are at odds as to how to solve these critical content protection problems, the legislation we introduce today provides us with the tools to break the logjam. Specifically, the legislation requires the content, consumer electronics, and information technology industries to come together with representatives of consumer groups to develop standards, technologies, and encoding rules to safeguard digital content so that it will be made more readily available to consumers without being subject to piracy. The affected parties would have one year to reach agreement. The technologies would then be incorporated into all digital media devices to ensure universal protection for digital content and universal access to such content for consumers. The deadline on industry would work in the following fashion: if they come together to solve these problems in private sector talks, we will empower government enforcement so that all consumer devices comply. If they don't, the government, in consultation with the private sector, will have to step in.

America's creative artists deserve our protection. Our copyright industries are among our greatest economic and creative assets. The framers recognized that innovation and creativity was instrumental to our country's economic health when they empowered Congress in the Constitution to protect copyrighted products. Now, however, copyrighted media products are delivered digitally, and copyright infringement is more difficult to detect and prevent. That is why strong technological protections need to be layered on top of the copyright laws, to complement the law as it exists today. Along those lines, I want to emphasize that this legislation does not alter existing copyright law. Copyright law rests squarely within the jurisdiction of the Senate Judiciary Committee. I hope to work closely with Chairman LEAHY and Ranking Member HATCH to stop copyright piracy in a digital age.

Some have said that legislation is unwieldy in this area. But our legislation would not be the first time Congress imposed technological requirements to benefit consumers. And it won't be the last. We have been here before. In 1962, under the All Channel Receiver Act, Congress mandated that all television receivers include the capability to tune all channels, UHF and VHF, allocated to the television broadcast service. More recently, in 1998, Congress required that all analog VCRs recognize a standard copy control technology, known as "Macrovision". In the former case, the Federal Government and the Federal Communications Commission took the lead. In the latter case, industry first agreed to the 'Macrovision' standard which Congress later codified by legislation. So, whether Congress or industry has led the way, the results have benefitted consumers and industry, by providing Americans with wider access to programming and content.

Pursuant to the bill we introduce today, the standards, technologies, and encoding rule would work in the following manner. Digital content delivered over the Internet and over the broadcast airwaves would include instructions as to consumers' ability to copy available content and would prevent the illegal retransmission of that content over the Internet. Digital media devices such as televisions sets, cable boxes, and personal computers, would be manufactured to recognize and respond to those instructions to prevent illegal copying or redistribution.

I want to stress, however, in the strongest terms possible, that the standards agreed to by industry would not be permitted to thwart legitimate consumer copying of programming in the home, for time shifting purposes, for example. Similarly, the technologies and encoding rules would be required to take into account the need to preserve fair use of otherwise protected content, for educational and research purposes for example. Specifically, our bill requires that encoding rules "take into account limitations on exclusive rights of copyright holders, including the fair use doctrine." In addition, the legislation specifies that no copy protection technology may prevent consumers from "making a personal copy for lawful use in the home" of non pay-per-view television programming. I want to be clear on this point, no legislation can or should pass Congress in this area that does not seek to protect legitimate consumer copying and fair use practices.

Critics of earlier drafts of our legislation painted it as heavy handed and awkward government selection of technologies. I want to respond. We have listened to their arguments delivered in dozens of meetings with my staff, and the bill we introduce today does nothing of the sort. Under the new legislation, if the required private sector negotiations fail, the FCC will begin a process, in consultation with those same private sector representatives, to implement technologically feasible solutions. So, in practice, the private sector, even in the event of a government initiated approach, will have every incentive and opportunity to guide a solution largely on its own.

Critics of earlier discussion drafts of our legislation also claimed that it would freeze innovation and that any solutions would invariably be out of date shortly after they are selected due to the rapid and accelerated development of technology in the high tech sector. But here too we have listened and responded. Pursuant to our legislation, if the private sector determines that the selected technological solution needs to be updated or modified, they may do so. It's as simple as that. Such a change might be warranted because the technologies or encoding rules in use have been compromised by hackers or pirates. Or, technological improvements may be developed that

ensure greater security for content, or more readily take into account consumers or researchers' fair use expectations.

Regardless, in any of these instances, at any time, the legislation would allow the representatives of the content, consumer electronics, and information technology industries to implement any necessary modification of the agreed upon technologies. They could simply do so on their own, and then notify the FCC of their actions.

At every stage in the process, the private sector, not the government, has the opportunity and the incentive to grab the reins. To date, however, this has not happened. The legislation we introduce today seeks to change that.

I ask unanimous consent that the text of the legislation, the Consumer Broadband and Digital Television Promotion Act, be printed in the RECORD.

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

S. 2048

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

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) **SHORT TITLE.**—This Act may be cited as the "Consumer Broadband and Digital Television Promotion Act".

(b) **TABLE OF SECTIONS.**—The table of sections for this Act is as follows:

- Sec. 1. Short title; table of sections.
- Sec. 2. Findings.
- Sec. 3. Adoption of security system standards and encoding rules.
- Sec. 4. Preservation of the integrity of security.
- Sec. 5. Prohibition on shipment in interstate commerce of nonconforming digital media devices.
- Sec. 6. Prohibition on removal or alteration of security technology; violation of encoding rules.
- Sec. 7. Enforcement.
- Sec. 8. Federal Advisory Committee Act exemption.
- Sec. 9. Definitions.
- Sec. 10. Effective date.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The lack of high quality digital content continues to hinder consumer adoption of broadband Internet service and digital television products.

(2) Owners of digital programming and content are increasingly reluctant to transmit their products unless digital media devices incorporate technologies that recognize and respond to content security measures designed to prevent theft.

(3) Because digital content can be copied quickly, easily, and without degradation, digital programmers and content owners face an exponentially increasing piracy threat in a digital age.

(4) Current agreements reached in the marketplace to include security technologies in certain digital media devices fail to provide a secure digital environment because those agreements do not prevent the continued use and manufacture of digital media devices that fail to incorporate such security technologies.

(5) Other existing digital rights management schemes represent proprietary, partial solutions that limit, rather than promote, consumers' access to the greatest variety of digital content possible.

(6) Technological solutions can be developed to protect digital content on digital broadcast television and over the Internet.

(7) Competing business interests have frustrated agreement on the deployment of existing technology in digital media devices to protect digital content on the Internet or on digital broadcast television.

(8) The secure protection of digital content is a necessary precondition to the dissemination, and on-line availability, of high quality digital content, which will benefit consumers and lead to the rapid growth of broadband networks.

(9) The secure protection of digital content is a necessary precondition to facilitating and hastening the transition to high-definition television, which will benefit consumers.

(10) Today, cable and satellite have a competitive advantage over digital television because the closed nature of cable and satellite systems permit encryption, which provides some protection for digital content.

(11) Over-the-air broadcasts of digital television are not encrypted for public policy reasons and thus lack those protections afforded to programming delivered via cable or satellite.

(12) A solution to this problem is technologically feasible but will require government action, including a mandate to ensure its swift and ubiquitous adoption.

(13) Consumers receive content such as video or programming in analog form.

(14) When protected digital content is converted to analog for consumers, it is no longer protected and is subject to conversion into unprotected digital form that can in turn be copied or redistributed illegally.

(15) A solution to this problem is technologically feasible but will require government action, including a mandate to ensure its swift and ubiquitous adoption.

(16) Unprotected digital content on the Internet is subject to significant piracy, through illegal file sharing, downloading, and redistribution over the Internet.

(17) Millions of Americans are currently downloading television programs, movies, and music on the Internet and by using "file-sharing" technology. Much of this activity is illegal, but demonstrates consumers' desire to access digital content.

(18) This piracy poses a substantial economic threat to America's content industries.

(19) A solution to this problem is technologically feasible but will require government action, including a mandate to ensure its swift and ubiquitous adoption.

(20) Providing a secure, protected environment for digital content should be accompanied by a preservation of legitimate consumer expectations regarding use of digital content in the home.

(21) Secure technological protections should enable content owners to disseminate digital content over the Internet without frustrating consumers' legitimate expectations to use that content in a legal manner.

(22) Technologies used to protect digital content should facilitate legitimate home use of digital content.

(23) Technologies used to protect digital content should facilitate individuals' ability to engage in legitimate use of digital content for educational or research purposes.

SEC. 3. ADOPTION OF SECURITY SYSTEM STANDARDS AND ENCODING RULES.

(a) **PRIVATE SECTOR EFFORTS.**—

(1) **IN GENERAL.**—The Federal Communications Commission, in consultation with the Register of Copyrights, shall make a determination, not more than 12 months after the date of enactment of this Act, as to whether—

(A) representatives of digital media device manufacturers, consumer groups, and copyright owners have reached agreement on security system standards for use in digital media devices and encoding rules; and

(B) the standards and encoding rules conform to the requirements of subsections (d) and (e).

(2) **REPORT TO THE COMMERCE AND JUDICIARY COMMITTEES.**—Within 6 months after the date of enactment of this Act, the Commission shall report to the Senate Committee on Commerce, Science and Transportation, the Senate Committee on the Judiciary, the House of Representatives Committee on Commerce, and the House of Representatives Committee on the Judiciary as to whether—

(A) substantial progress has been made toward the development of security system standards and encoding rules that will conform to the requirements of subsections (d) and (e);

(B) private sector negotiations are continuing in good faith;

(C) there is a reasonable expectation that final agreement will be reached within 1 year after the date of enactment of this Act; and

(D) if it is unlikely that such a final agreement will be reached by the end of that year, the deadline should be extended.

(b) **AFFIRMATIVE DETERMINATION.**—If the Commission makes a determination under subsection (a)(1) that an agreement on security system standards and encoding rules that conform to the requirements of subsections (d) and (e) has been reached, then the Commission shall—

(1) initiate a rulemaking, within 30 days after the date on which the determination is made, to adopt those standards and encoding rules; and

(2) publish a final rule pursuant to that rulemaking, not later than 180 days after initiating the rulemaking, that will take effect 1 year after its publication.

(c) **NEGATIVE DETERMINATION.**—If the Commission makes a determination under subsection (a)(1) that an agreement on security system standards and encoding rules that conform to the requirements of subsections (d) and (e) has not been reached, then the Commission—

(1) in consultation with representatives described in subsection (a)(1)(A) and the Register of Copyrights, shall initiate a rulemaking, within 30 days after the date on which the determination is made, to adopt security system standards and encoding rules that conform to the requirements of subsections (d) and (e); and

(2) shall publish a final rule pursuant to that rulemaking, not later than 1 year after initiating the rulemaking, that will take effect 1 year after its publication.

(d) **SECURITY SYSTEM STANDARDS.**—In achieving the goals of setting open security system standards that will provide effective security for copyrighted works, the security system standards shall ensure, to the extent practicable, that—

(1) the standard security technologies are—
 (A) reliable;
 (B) renewable;
 (C) resistant to attack;
 (D) readily implemented;
 (E) modular;
 (F) applicable to multiple technology platforms;

(G) extensible;
 (H) upgradable;
 (I) not cost prohibitive; and

(2) any software portion of such standards is based on open source code.

(e) **ENCODING RULES.**—

(1) **LIMITATIONS ON THE EXCLUSIVE RIGHTS OF COPYRIGHT OWNERS.**—In achieving the goal of promoting as many lawful uses of copyrighted works as possible, while preventing

as much infringement as possible, the encoding rules shall take into account the limitations on the exclusive rights of copyright owners, including the fair use doctrine.

(2) **PERSONAL USE COPIES.**—No person may apply a security measure that uses a standard security technology to prevent a lawful recipient from making a personal copy for lawful use in the home of programming at the time it is lawfully performed, on an over-the-air broadcast, premium or non-premium cable channel, or premium or non-premium satellite channel, by a television broadcast station (as defined in section 122(j)(5)(A) of title 17, United States Code), a cable system (as defined in section 111(f) of such title), or a satellite carrier (as defined in section 119(d)(6) of such title).

(f) **MEANS OF IMPLEMENTING STANDARDS.**—The security system standards adopted under subsection (b), (c), or (g) shall provide for secure technical means of implementing directions of copyright owners for copyrighted works.

(g) **COMMISSION MAY REVISE STANDARDS AND RULES THROUGH RULEMAKING.**—

(1) **IN GENERAL.**—The Commission may conduct subsequent rulemakings to modify any security system standards or encoding rules established under subsection (b) or (c) or to adopt new security system standards that conform to the requirements of subsections (d) and (e).

(2) **CONSULTATION REQUIRED.**—The Commission shall conduct any such subsequent rulemaking in consultation with representatives of digital media device manufacturers, consumer groups, and copyright owners described in subsection (a)(1)(A) and with the Register of Copyrights.

(3) **IMPLEMENTATION.**—Any final rule published in such a subsequent rulemaking shall—

(A) apply prospectively only; and

(B) take into consideration the effect of adoption of the modified or new security system standards and encoding rules on consumers' ability to utilize digital media devices manufactured before the modified or new standards take effect.

(h) **MODIFICATION OF TECHNOLOGY BY PRIVATE SECTOR.**—

(1) **IN GENERAL.**—After security system standards have been established under subsection (b), (c), or (g) of this section, representatives of digital media device manufacturers, consumer groups, and copyright owners described in subsection (a)(1)(A) may modify the standard security technology that adheres to the security system standards rules established under this section if those representatives determine that a change in the technology is necessary because—

(A) the technology in use has been compromised; or

(B) technological improvements warrant upgrading the technology in use.

(2) **IMPLEMENTATION NOTIFICATION.**—The representatives described in paragraph (1) shall notify the Commission of any such modification before it is implemented or, if immediate implementation is determined by the representatives to be necessary, as soon thereafter as possible.

(3) **COMPLIANCE WITH SUBSECTION (d) REQUIREMENTS.**—The Commission shall ensure that any modification of standard security technology under this subsection conforms to the requirements of subsection (d).

SEC. 4. PRESERVATION OF THE INTEGRITY OF SECURITY.

An interactive computer service shall store and transmit with integrity any security measure associated with standard security technologies that is used in connection with copyrighted material such service transmits or stores.

SEC. 5. PROHIBITION ON SHIPMENT IN INTERSTATE COMMERCE OF NONCONFORMING DIGITAL MEDIA DEVICES.

(a) **IN GENERAL.**—A manufacturer, importer, or seller of digital media devices may not—

(1) sell, or offer for sale, in interstate commerce, or

(2) cause to be transported in, or in a manner affecting, interstate commerce, a digital media device unless the device includes and utilizes standard security technologies that adhere to the security system standards adopted under section 3.

(b) **EXCEPTION.**—Subsection (a) does not apply to the sale, offer for sale, or transportation of a digital media device that was legally manufactured or imported, and sold to the consumer, prior to the effective date of regulations adopted under section 3 and not subsequently modified in violation of section 6(a).

SEC. 6. PROHIBITION ON REMOVAL OR ALTERATION OF SECURITY TECHNOLOGY; VIOLATION OF ENCODING RULES.

(a) **REMOVAL OR ALTERATION OF SECURITY TECHNOLOGY.**—No person may—

(1) knowingly remove or alter any standard security technology in a digital media device lawfully transported in interstate commerce; or

(2) knowingly transmit or make available to the public any copyrighted material where the security measure associated with a standard security technology has been removed or altered, without the authority of the copyright owner.

(b) **COMPLIANCE WITH ENCODING RULES.**—No person may knowingly apply to a copyrighted work, that has been distributed to the public, a security measure that uses a standard security technology in violation of the encoding rules adopted under section 3.

SEC. 7. ENFORCEMENT.

(a) **IN GENERAL.**—The provisions of section 1203 and 1204 of title 17, United States Code, shall apply to any violation of this Act as if—

(1) a violation of section 5 or 6(a)(1) of this Act were a violation of section 1201 of title 17, United States Code; and

(2) a violation of section 4 or section 6(a)(2) of this Act were a violation of section 1202 of that title.

(b) **STATUTORY DAMAGES.**—A court may award damages for each violation of section 6(b) of not less than \$200 and not more than \$2,500, as the court considers just.

SEC. 8. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to any committee, board, commission, council, conference, panel, task force, or other similar group of representatives of digital media devices and representatives of copyright owners convened for the purpose of developing the security system standards and encoding rules described in section 3.

SEC. 9. DEFINITIONS.

In this Act:

(1) **STANDARD SECURITY TECHNOLOGY.**—The term "standard security technology" means a security technology that adheres to the security system standards adopted under section 3.

(2) **INTERACTIVE COMPUTER SERVICE.**—The term "interactive computer service" has the meaning given that term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(3) **DIGITAL MEDIA DEVICE.**—The term "digital media device" means any hardware or software that—

(A) reproduces copyrighted works in digital form;

(B) converts copyrighted works in digital form into a form whereby the images and sounds are visible or audible; or

(C) retrieves or accesses copyrighted works in digital form and transfers or makes available for transfer such works to hardware or software described in subparagraph (B).

(4) **COMMISSION.**—The term "Commission" means the Federal Communications Commission.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, except that sections 4, 5, and 6 shall take effect on the day on which the final rule published under section 3(b) or (c) takes effect.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 2050. A bill to amend the Internal Revenue Code of 1986 to treat nominally foreign corporations created through inversion transactions as domestic corporations; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise to introduce legislation that would bar multinational corporations from avoiding millions of dollars in taxes through the use of shell corporations in foreign tax havens.

On February 18 the New York Times in an article entitled "U.S. Corporations Are Using Bermuda to Slash Tax Bills," reported that a number of prominent U.S. corporations, using creative paperwork, have transformed themselves into Bermuda corporations purely to avoid paying their share of U.S. taxes. These new Bermuda entities are shell corporations. They have no staff, no offices and no real business activity in Bermuda. They exist for the purpose of shielding income from the IRS.

How does the "Bermuda Triangle" tax loophole work? U.S. companies, referred to as "domestic corporations," pay U.S. taxes on their worldwide income, whether that income is earned in the United States or abroad. Foreign corporations pay U.S. taxes only on income earned in the United States.

Through the use of a process called corporate inversion, a domestic company can be "acquired" by a shell corporation chartered in a foreign country with low or no corporate taxes, Bermuda for example. Under such an arrangement, the shareholders of the new foreign parent are the same as the shareholders of the old U.S. company. This maneuver requires little more than filing of the proper paperwork in the new "home" country and payment of a registration fee. The new foreign parent corporation need not have any offices or any staff, and they usually don't.

United States tax law contains many provisions designed to expose such creative accounting and to require U.S. companies that are foreign in name only to pay the same taxes as other domestic corporations. Corporate inversions are designed to exploit a specific loophole in current law so that the company is treated as foreign for tax purposes, and therefore pays no U.S. taxes on its foreign income.

My bill closes this loophole in a way that is narrowly tailored to capture

corporate inversion transactions. In the case of inversion "stock swaps" the bill directs the IRS to look at the ownership of the new company to assess whether it is a domestic firm.

The loophole gives tens of millions of dollars in tax breaks to major multinational companies with significant non-U.S. business. It also puts other U.S. companies unwilling or unable to use this loophole at a competitive disadvantage. No American company should be penalized staying put while others renounce U.S. "citizenship" for a tax break.

Of course when some companies don't pay their fair share, the rest of American taxpayers and businesses are stuck with the bill. I think I can safely say that very few of the small businesses that I visit in Detroit Lakes, MN, or Mankato, in Minneapolis, or Duluth can avail themselves of the Bermuda Triangle.

When we have our debate over budget priorities here in the Senate, we need to decide whether we are going to go after tax scofflaws or instead put these resources into fair tax relief, public investment, or saving social security. That's what this legislation is all about. I hope colleagues will take a close look and be able to support it.

By Mr. REID (for himself, Mr. HUTCHINSON, Mr. WARNER, Mr. LEVIN, Mr. DASCHLE, Mr. LOTT, Mr. KENNEDY, Mr. THURMOND, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CLELAND, Mr. SMITH of New Hampshire, Ms. LANDRIEU, Mr. INHOFE, Mr. REED, Mr. SANTORUM, Mr. AKAKA, Mr. ROBERTS, Mr. NELSON of Florida, Mr. ALLARD, Mr. NELSON of Nebraska, Mr. SESSIONS, Mrs. CARNAHAN, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, and Mr. BINGAMAN):

S. 2051. A bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking effect, and for other purposes; to the Committee on Armed Services.

Mr. REID. Mr. President, last Session I, along with 79 cosponsors, introduced S. 170, "The Retired Pay Restoration Act of 2001." Our bill addressed a 110-year old injustice against over 500 thousand of our Nation's veterans. Congress has repeatedly forced the bravest men and women in our Nation, retired career veterans, to essentially forgo receipt of a portion of their retired pay if they received a disability injury in the line of service.

In October, I introduced an amendment identical to S. 170 for the Senate Defense Authorization Bill. The Senate adopted my amendment by unanimous consent. Unfortunately, the House choose not to appropriate funds for this important measure.

I rise today to again introduce a bill along with my colleagues Mr. HUTCHINSON, Mr. WARNER, Mr. LEVIN, Mr. DASCHLE, Mr. LOTT, Mr. KENNEDY, Mr.

THURMOND, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CLELAND, Mr. SMITH of New Hampshire, Ms. LANDRIEU, Mr. INHOFE, Mr. REED, Mr. SANTORUM, Mr. AKAKA, Mr. ROBERTS, Mr. NELSON of Florida, Mr. ALLARD, Mr. NELSON of Nebraska, Mr. SESSIONS, Mrs. CARNAHAN, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, and Mr. BINGAMAN that will correct this inequity for veterans who have retired from our Armed Forces with a service-connected disability.

Our bill will repeal the contingency language enacted in the National Defense Authorization Act for Fiscal Year 2002 and thus remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking effect. It will permit retired members of the Armed Forces who have a service connected disability to receive military retirement pay while also receiving veterans' disability compensation.

Congress approved inequitable legislation prohibiting the concurrent receipt of military retired pay and VA disability compensation shortly after the Civil War, when the standing army of the United States was extremely limited. At that time, only a small portion of our armed forces consisted of career soldiers.

Today, nearly one and a half million Americans dedicate their lives to the defense of our Nation. The United States' military force is unmatched in terms of power, training and ability. Our nation's status as the world's only superpower is largely due to the sacrifices our veterans made during the last century. Rather than honoring their commitment and bravery by fulfilling our obligations, the federal government has chosen instead to perpetuate a longstanding injustice. Quite simply, this is disgraceful, and we must correct it.

Once again our Nation is calling upon the members of the Armed Forces to defend democracy and freedom. We must send a signal to the men and women currently in uniform that our government takes care of those that make sacrifices for our Nation. We must demonstrate to veterans that we are thankful for their dedicated service.

Military retirement pay and disability compensation were earned and awarded for entirely different purposes. Current law ignores the distinction between these two entitlements. Military retired pay is earned compensation for the extraordinary demands and sacrifices inherent in a military career. It is a reward promised for serving two decades or more under conditions that most Americans find intolerable. Veterans' disability compensation, on the other hand, is recompense for pain, suffering, and lost future earning power caused by a service-connected illness or injury. Few retirees can afford to live on their retired pay alone, and a severe disability only makes the problem worse by limiting or denying any post-service working life.

Career military retired veterans are the only group of Federal retirees who are required to waive their retirement pay in order to receive VA disability. All other federal employees receive both their civil service retirement and VA disability with no offset. Simply put, the law discriminates against career military men and women. It assumes, in effect, that disabled military retirees neither need nor deserve the full compensation they earned for their 20 or more years served in uniform.

This inequity is absurd. How do we explain it to the men and women who sacrificed their own safety to protect this great Nation? How do we explain this inequity to those members currently risking their lives to defeat terror?

We are currently losing over one thousand World War II veterans each day. Every day we delay acting on this legislation means continuing to deny fundamental fairness to thousands of men and women. They will never have the ability to enjoy their two well-deserved entitlements.

This bill represents an honest attempt to correct an injustice that has existed for far too long. Allowing disabled veterans to receive military retired pay and veterans disability compensation concurrently will restore fairness to Federal retirement policy.

This legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

Passing this bill will finally eliminate a grossly inequitable 19th century law and ensure fairness within the Federal retirement policy. Our veterans have heard enough excuses. Now it is time for them to hear our gratitude. I urge my colleagues to join me in supporting this legislation to finally end this disservice to our retired military men and women.

Our veterans have earned this and now is our chance to honor their service to our nation.

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

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

S. 2051

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

SECTION 1. EFFECTIVE DATE OF AUTHORITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) REPEAL OF CONTINGENT EFFECTIVE DATE.—Section 1414 of title 10, United States Code, as added by section 641(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), is amended—

(1) in subsection (a), by striking "subject to the enactment of qualifying offsetting

legislation as specified in subsection (f)"; and

(2) by striking subsections (e) and (f).

(b) **SUBSTITUTION OF EFFECTIVE DATE.**—Section 1414 of title 10, United States Code, shall apply with respect to months beginning on or after on October 1, 2002.

(c) **PROHIBITION OF RETROACTIVE BENEFITS.**—(1) No benefit may be paid to any person by reason of section 1414 of title 10, United States Code, for any period before the date specified in subsection (b).

(2) Section 641 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1149) is amended by striking subsection (d).

(d) **CONFORMING TERMINATION OF SPECIAL COMPENSATION PROGRAM.**—(1) Effective on the date specified in subsection (b), section 1413 of title 10, United States Code, is repealed.

(2) Section 1413 of title 10, United States Code, is amended—

(A) in subsection (a), by striking the second sentence; and

(B) in subsection (b)—

(i) in paragraph (1), by striking "(1) For payments" and all that follows through "December 2002, the following:";

(ii) by striking paragraphs (2) and (3); and

(iii) by redesignating subparagraphs (A), (B), (C), and (D) as paragraphs (1), (2), (3), and (4), respectively, and realigning such paragraphs (as so redesignated) two ems from the left margin.

Mr. HUTCHINSON. Mr. President, I rise today to join Senator REID and Senator WARNER in introducing a bill that will eliminate, once and for all, the inequity that our Nation's veterans have been burdened with for 110 years. Across this great Nation there are over 400,000 disabled, military retirees that must give up their retired pay in order to receive their VA disability compensation. Military retirees are the only group of Federal retirees who are forced to fund their own disability benefits.

Men and women who served our country, who dedicated their lives to the defense of freedom, have earned fair compensation. The issue has been before the Senate for years. Concurrent receipt legislation introduced earlier this year by Senator REID and myself had 79 cosponsors. The Congress needs to act this year on this issue.

This bill will honor Americans who answered our Nation's call for 20 years or more. They are veterans who stood the line, defending our Nation, during times of peace and times of war. Military retirement pay and disability compensation are earned and awarded for entirely different purposes. Current law ignores the distinction between these entitlements. Military retirees have dedicated 20 or more years to our national defense in earning their retirement, whereas disability compensation is awarded to compensate a veteran for injury incurred in service to our Nation. Our veterans have earned and deserve fair compensation. I have been a longstanding supporter of efforts to repeal the century-old law that prohibits military retirees from collecting the retired pay that they earned as well as VA disability compensation.

Since September 11, the American people have gained a greater apprecia-

tion of our military. The men and women in uniform have performed admirably in the war against terrorism. I recently visited our troops in Afghanistan. Their professionalism, their dedication, and their patriotism was an inspiration. As we all know, Afghanistan is still a very dangerous place. We need to send a message to those soldiers that are putting their lives on the line every day that our government provides just and fair compensation for those that will have gone before them.

The Fiscal Year 2002 Defense Authorization Act included authority for concurrent receipt, but made it subject to offsetting funding. The bill we are introducing today moves forward in requiring full concurrent receipt, with no restrictions.

I pledge to continue the fight on this important issue. I look forward to joining with Senator REID in ensuring that the Senate Budget Resolution includes full funding for concurrent receipt. I will work with Senator WARNER and my colleagues on the Senate Armed Services Committee to see that the bill we are introducing today is incorporated into the Fiscal Year 2003 Defense Authorization bill.

In closing, I urge my colleagues on both sides of the aisle to support this important legislation. It is simply the right and fair thing to do for American veterans.

Mr. WARNER. Mr. President, I join my colleagues today in introducing legislation to allow our disabled military retirees to receive all of the compensation they have earned through their service to our Nation.

With this legislation, we are taking the next critical step in eliminating a tremendous injustice that impacts disabled military retirees. Many of my colleagues, on both sides of the aisle, have joined in cosponsoring this important legislation.

What is our common goal? To ensure that an important class of disabled veterans, military retirees who have suffered disability during their years of military service, are fairly and appropriately compensated by the Nation they served so well. We cannot and should not wait any longer for this to happen.

Last year, with overwhelming bipartisan support, the Congress overturned the 110-year-old prohibition against "concurrent receipt" as part of the Fiscal Year 2002 National Defense Authorization Act. In other words, we repealed the prohibition in law that prevents military retirees from receiving both their regular retired pay and veterans disability compensation, without a dollar for dollar offset. Unfortunately, we did not have the necessary funding to pay for this repeal. The resulting compromise in conference was a confidential repeal.

On its face this legislation before us is a somewhat technical proposal. By its terms, it simply repeals language enacted in law last December that requires the President to propose offset-

ting legislation funding concurrent receipt and requires Congress to pass "qualifying offsetting legislation" before concurrent receipt of military retired pay and veterans' disability compensation can begin. The underlying authorization to receive both concurrently, as provided for in the Fiscal Year 2002 National Defense Authorization Act, stands. The condition which has delayed implementation would be removed by the legislation we are introducing today.

Both Senator LEVIN as chairman, and I as ranking member of the Committee on Armed Services, have requested that the Senate Budget Committee include funding in the budget resolution to fund this hard-earned benefit. I have requested that this funding be included "above the line"—that is, in addition to the President's requested amount for defense. In my view, Congress should not be forced to cut the President's requested initiatives and programs—which are critical to the ongoing war on terrorism, to fund this benefit.

The House Budget Committee has already included a portion of the funds required for "concurrent receipt" in their budget resolution, "above the line."

It is time to move forward on this important issue. The legislation we are introducing will permit implementation of the law the Congress has already passed, and I am confident that, working with the Budget Committee, we can find the money to pay for it.

Our Nation has no more valuable assets than our men and women in uniform. They are called upon to leave their families, deploy to areas around the world, and face threats on a daily basis. They are on the front lines, defending our freedom. Our Nation must meet its commitment to those dedicated Service members. How can we ask the men and women who have so faithfully served to sacrifice a portion of their retirement because they are also receiving compensation for an injury suffered while serving their country?

Our career military service members were promised health care for life for themselves and their families. Two years ago, we the Congress acted to make that promise a reality. Yes, there was a significant cost associated with providing that care. But there is no cost too high to provide for those who ensure our freedom.

Today we are considering a similar situation. Is the cost too high of providing our disabled military retirees both the military retired pay they have earned and compensation they are due for a disability they received while serving their Nation? I think not.

By Mr. ROCKEFELLER:

S. 2052. A bill to amend part A of title IV of the Social Security Act to reauthorize and improve the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr President, I am proud to introduce a bill that reauthorizes the landmark welfare reform legislation passed 1996. It will allow States to continue their excellent work on behalf of families on welfare. This reauthorization bill is designed to allow states to continue to provide the flexible initiatives that have reduced national welfare caseloads by over 50 percent and moved millions of Americans from welfare to work.

Welfare reform was a bold experiment to dramatically change a major social program. In 1996, Congress ended the entitlement of eligible families with children to cash aid. The results five years later are impressive. Over two-thirds of the people who are leaving the welfare rolls have left for work.

Six years ago, we said the goal of welfare reform should be to promote work and to protect children. We stood here together, on uncharted ground, and endorsed significant policy changes that we believed would help families gain independence and economic self-sufficiency, while protecting the children. States began to revise welfare service delivery with guidance based on the new reforms. Each state designed and implemented programs that were unique and specific to their populations.

While there are still many challenges facing families who are struggling to make the transition from welfare to work, as well as challenges facing States in administering the program, I believe that we are on the right course. It is essential to keep on course and support the fundamental principles adopted in 1996, as well as maintain new State flexibility in order to reward and continue the innovations made by the States.

In West Virginia, welfare reform has brought bold changes. Parents on welfare get extra support as they face new responsibilities and obligations to make the transition from welfare to jobs. Last summer, I hosted a roundtable discussion to meet with individual West Virginians who were undergoing major life transitions. They told me that they were proud to be working, but that it was often still a struggle to make ends meet and do the best for their children. The goal of this legislation is to help those parents, and millions more, to promote the well-being of their children even as they work.

Today, I am introducing the Personal Responsibility and Work Opportunity Reconciliation Act Amendments of 2002. States are making measurable progress. We should continue to build on this foundation, and not reduce State flexibility. It is essential we continue welfare reform, not unravel it, or restructure it.

This bill acknowledges that we must keep the focus on work, by both requiring and rewarding work. To ensure a real focus on helping parents leave welfare rolls for a job, this legislation gradually replaces the caseload reduc-

tion credit with a new employment credit. States will only get a bonus toward their work participation requirement if parents move from welfare to a job. This credit will acknowledge the dignity of all work by providing a bonus for parents who get jobs, both full and part-time. A mother who has never worked in her life and then gets a part-time job has had a true accomplishment, and that deserves recognition. It is also the first step toward independence.

I am especially grateful to Senator LINCOLN and Congressman LEVIN for their leadership and vision in designing this new incentive. It is an empowering approach to promoting work and sends the proper message to families who are striving to become self sufficient. I am pleased to incorporate their proposal into my bill.

At this point, with a soft economy, it would be unwise to significantly change State TANF programs to impose drastically higher work participation rates requiring 40 hours per job placement activities would be, plain and simple, an unfunded mandate.

State officials have testified before the Finance Committee that such changes would force States to restructure existing programs that are working and turn their focus away from those who need some assistance with child care or transportation, but are no longer dependent on a welfare check. We should not turn away from helping our working families while spending limited resources to meet new, and arbitrary, work rates and hours.

To promote work, it is essential to help working parents. We obviously must invest more in child care funding to help parents stay on the job. My proposal seeks to increase guaranteed child care funding for this provision by \$1 billion each year. This increase is designed to address existing needs of the current TANF program.

This bill would continue the transitional Medicaid program so families can keep health care coverage for a year as they move from welfare to work. In 1996, I was proud to work with Senator BREAU and the late Senator John Chafee to protect access to health care for such vulnerable families. I have incorporated Senator BREAU's bipartisan bill to continue transitional Medicaid coverage and I appreciate his leadership on this and other key issues. Our bill also gives states more flexibility and options to place parents in vocational training and English as a Second Language programs so parents can get jobs. In recognition of Maine's success with the Parents as Scholar program, states have the option to follow the Maine model for 5 percent of their caseload to combine work and education.

Because States are investing more in the existing welfare program than the current \$16.5 billion grant, this legislation would provide a modest increase of \$2.5 billion in the basic TANF block grant over the next five years. The new

TANF funding would be allocated based on the number of poor children. In 1996, Congress promised States that it would fully fund the Social Services Block Grant at \$2.8 billion dollars. The block grant is a flexible resource to states to help families, and many States use it for child care. Unfortunately, its funding was slashed to \$1.7 billion in recent years. I believe that since the States kept their promise on welfare reform, Congress should keep our promise to fund the Social Services Block Grant.

The bill also invests \$200 million to create BusinessLink Grants, competitive grants to support public and private partnerships to help parents get jobs. The Welfare-to-Work Partnership is just one example of how nonprofits working with business leaders can make a real difference. The Partnership includes over 20,000 businesses that have provided more than 1 million jobs to parents moving from welfare to work. I have met with the board members of this group, and we should encourage such partnerships. I know that other groups, like the Salvation Army and Good Will, are doing important work on providing transitional job opportunities, and these organizations would be eligible for grants as well.

A job is the first step, but for welfare parents to make a successful transition to independence, they need a range of supports. To achieve this goal, the bill will create Pathways to Self-Sufficiency Grants to improve this support network for parents. These grants are intended to provide incentives and support to TANF caseworkers and nonprofit organizations to help improve the comprehensive network of supports for working families, including Medicaid, CHIP, child care, EITC, and a range of services. Working mothers deserve to know what type of support will be available so that they do not slip back into welfare.

Work is fundamental, but we also need to be concerned about important aspects of the lives of children and children. This legislation creates a Family Formation Fund to encourage health families, reduce teenage pregnancy, and improve child support and participation of parents in children's lives. The bill authorizes Second Chance homes, an innovative program to help teenage parents get the support and education they need. The bill seeks to end certain discrimination and harsh rules for two-parent families in the current system. If our goal is to support marriage, we should not penalize married couples.

Our legislation also makes a simple, but important change. Under the current TANF program, each welfare parent has an Individual Responsibility Plan that serves as an assessment and work plan. In addition to having a responsibility to work, parents have a responsibility to protect their children's well-being. To emphasize this fundamental point, this bill adds language directing states to incorporate the concept of a child's well-being into each

parent's Individual Responsibility Plan. States have great flexibility, but it is important to send a clear message that one of a parent's responsibilities is the well-being of their children.

This legislation builds on the foundation of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. My hope is that this framework will help promote bipartisan discussion about how we can make even more improvements in our welfare system, while maintaining our partnership with the States. We all must work together, the Administration, the Congress and the States, to improve our partnership to help families move from welfare to work.

I ask unanimous consent to print the section-by-section summary of my bill in the RECORD.

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

SECTION BY SECTION ANALYSIS

TITLE I—TANF FUNDING

Increase the main TANF grant of \$16.5 by adding \$2.5 billion over 5 years, based on the number of poor children per state. It will gradually increase the TANF block grant from \$16.5 billion in 2003 to \$17.4 billion in 2007.

The Supplemental Grants are renewed, in an expanded manner, and "built into" the main TANF funding stream. Under expansion, 34 States will qualify, compared to 17 States in the past. The new Supplemental Grant is \$472,749,000 per year.

The Contingency Fund is reinstated in a more effective form.

A \$300 million bonus fund is created to reward States which reduce poverty, along the lines of the "high performance" bonus. In addition, States which show an increase in child poverty are required to include "measurable milestones" in their corrective action plans.

Reauthorization of other grants, such as bonus grants to high performance states and grants for Indian Tribes, and continuation of penalties for failure of any State to maintain certain level of historic effort.

Funding for the Social Services Block Grant, SSBG, which funds an array of needed programs including day care, education and training programs, and services for victims of domestic violence, is restored to \$2.8 billion per year, as is the 10 percent TANF transfer authority, as promised in the original 1996 welfare reform law.

TITLE II—SUPPORTING WORK

Replace caseload reduction credit with employment credit beginning with fiscal year 2005. Employment credit will reward States in which families leave welfare for work; additional credit will be awarded for families leaving welfare with higher earnings.

Guaranteed funding for the mandatory component of the Child Care Development Block Grant, CCDBG, is increased from \$2.7 billion to \$3.7 billion per year. The TANF transfer authority continues.

States which adopt a "Parents as Scholars" program, which combines work and post-secondary education, may count participants in such a program as meeting the work participation requirements, up to a maximum of 5 percent of a State's caseload. Vocational training and education are permitted to count toward the work participation requirements for up to 24 months, not 12, and teenage mothers completing high school are exempt from the 30 percent cap.

States can count up to 10 hours of ESL, with assessment, toward work participation.

Provide \$200 million over five years for new Business Link grants to create public/private partnerships to encourage employers to design innovative ways, including transitional jobs, to help individuals moving from welfare to work.

TITLE III—SUPPORTING FAMILIES

Eliminate the stricter work participation requirement for two-parent families.

States are prohibited from imposing stricter eligibility criteria for two-parent families, such as continuing the AFDC "100 hour" rule. In addition, the work participation rate for two-parent families is conformed to that for one-parent families.

Create a Family Formation Fund to provide \$100 million for research, technical assistance, and best practices in three areas, including: 1. formation of two-parent families, 2. reducing teen pregnancy, and 3. increasing the ability of non-custodial parents to support and be involved in their children's lives.

Since a child's well-being is part of a parent's responsibility, states are directed to include child well-being as part of the Individual Responsibility Plan for all parents in the program.

TITLE IV—STATE FLEXIBILITY

New Pathway to Self-Sufficiency Grants, \$150 million over 5 years, are made available to improve coordination of benefit systems and to conduct outreach to low-income families, working families in particular, to promote enrollment of eligible families in assistance programs. States, local governments, and non-profit organizations are eligible to receive the grants, with a preference for applications which involve collaborations.

States deserve flexibility and the option to offer wage subsidies to parents who meet the existing work requirements but need modest income support. Such subsidies would be considered "work supports" and as such would be treated as work supports, and not count toward the federal 60-month time limit.

Retain the 20 percent hardship waivers for State flexibility, but allow States that select the Domestic Violence Option to serve the victims of domestic violence as a separate and distinct category, since this option has specific rules, including a 6-month review.

States operating under 1996 waivers are permitted to continued doing so.

Provide States with the option to align foster care and adoption assistance eligibility with TANF eligibility. States must retain the income and assets standards for foster care established in the 1996 welfare reform law as the minimum standard, but States would have the option of updating the standards to align them with TANF eligibility. This is designed to streamline administrative work, and is similar to State flexibility to align food stamp vehicle rules to TANF vehicle rules.

Allow States to cover eligible legal immigrants under TANF, regardless of date of entry.

Give States more flexibility to transfer TANF funds to carry out existing transportation-for-jobs programs or reverse commute projects.

TITLE V—HEALTHY CHILDREN

Provide transitional Medicaid to parents and children making the transition from welfare to work. Provide States with the option of automatically enrolling families who leave TANF for a job in Medicaid for a full year, without the necessity of reapplying.

States will have an option to provide Medicaid and CHIP services to legal immigrant

children and pregnant women, regardless of date of entry.

Authorize \$32 million for Second Chance Homes for teenage expectant mothers. These facilities allow these girls to live in a safe environment and receive formal and parenting education and prenatal care.

TITLE VI—PUBLIC ACCOUNTABILITY

To improve accountability, States are required to make public the financial and program data submitted to the Department of Health and Human Services, HHS, when the data is transmitted, including posting the information on the State's web site.

Under current law, four antidiscrimination statutes apply to activities funded by TANF: the Age Discrimination Act of 1975; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and Title VI of the Civil Rights Act of 1964. GAO is required to conduct a review of how States have complied with the requirements of these laws and make recommendations for improving compliance. HHS is also required to issue a "best practices" guide for States in complying with these laws in TANF.

Ensure that an adult in a family receiving TANF and engaged in a work activity shall not displace any public employee or position.

Conduct longitudinal studies in 10 States of TANF applicants and recipients to determine the factors that contribute to positive employment and family outcomes.

A GAO study to determine the impact of the prohibition on SSI benefits for legal immigrants.

Grant to improve States' policies and procedures for assisting individuals with barriers to work.

GAO survey and evaluation of State activities on workforce development for professional staff delivery in TANF and TANF-related services. The report should assess the range of caseloads and effects of caseload on family outcomes and satisfaction. The survey should provide information on the qualifications, education and training for staff, and the amount of staff turnover.

By Mr. FRIST:

S. 2053. A bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to introduce the "Vaccine Affordability and Availability Act." The United States has succeeded in dramatically reducing the incidence of disease through the use of vaccines. In some cases, we've even been able to eradicate specific diseases, including smallpox. Smallpox, which has killed more people than any other disease or war in history, has been eradicated by the research, development and deployment of vaccines.

Still, our success should not and must not dampen our resolve for combating disease with vaccines. Many vaccine-preventable diseases are still increasing morbidity and mortality due to a lack of public awareness about the existence and effectiveness of vaccines, and, in some cases, due to a shortage of certain vaccines.

The goal of this bill is to improve how we vaccinate people in America today. It would reduce the cost of vaccines, make vaccines more accessible,

enhance vaccine education, and streamline the vaccine compensation program. I urge all of my colleagues, on both sides of the aisle, to support this bill and, in so doing, support the prevention of disease and the saving of lives.

We must strengthen our immunization system. We need only look at the experiences of three developed countries, Great Britain, Sweden and Japan, when they allowed their immunization rates to drop due to fear associated with the pertussis, whooping cough, vaccine. In Great Britain, a decrease in pertussis immunizations in 1974 resulted in an epidemic of more than 100,000 cases of pertussis and 36 deaths by 1978. In Japan between 1974 and 1979, pertussis vaccination rates fell from 70 percent, with 393 cases and no deaths, to around 20 to 40 percent, with 13,000 cases and 41 deaths. In Sweden between 1981 and 1985, the annual incidence rate of pertussis per 100,000 children 0–6 years of age increased from 700 cases to 3,200 cases. Low diphtheria immunization rates in the former Soviet Union for children and the lack of booster immunizations for adults have increased diphtheria from 839 cases in 1989 to nearly 50,000 cases and 1,700 deaths in 1994.

As the General Accounting Office, GAO, described in a March 2000 report, infectious diseases are responsible for nearly half of all deaths worldwide for people under the age of 44. The report further states that immunizing children against infectious diseases is “considered to be one of the most effective public health initiatives ever undertaken” in the United States and the number of people in the United States contracting vaccine-preventable diseases has been reduced by more than 95 percent. Every year, millions of children are safely vaccinated, preventing thousands of childhood deaths and even more debilitating illnesses. While vaccines save lives and save the nation from lifelong medical costs associated with contracting vaccine-preventable diseases, no product is risk-free.

When Congress passed the National Childhood Vaccine Injury Act in 1986, it recognized that “[v]accination of children against deadly, disabling, but preventable infectious diseases has been one of the most spectacularly effective public health initiatives this country has ever undertaken.” Congress further noted that the “[u]se of vaccines has prevented thousands of children’s deaths each year and has substantially reduced the effects resulting from disease.” Congress further recognized that the cost of litigation initiated on behalf of children claiming vaccine-related injuries has resulted in an enormous increase in the price of vaccines and a significant reduction in the number of vaccine manufacturers in the U.S. market.

The Advisory Commission on Childhood Vaccines, ACCV, was established pursuant to the 1986 National Childhood Vaccine Injury Act to advise the

Secretary of HHS on ways to improve the Vaccine Injury Compensation Program, which was also established in the same law. Meeting minutes from a September 2001 ACCV meeting best sum up the integral connection between vaccine supply, production, and liability concerns that our bill seeks to address: “The vaccine supply in the United States is becoming quite fragile. Over the last 20 to 30 years, there has been a significant decrease in the number of vaccine manufacturers. As a result, there is a relatively small group of manufacturers with limited manufacturing capability. This fragility compromises the ability to meet current vaccine needs and limits capacity to respond to emergencies.”

In the early 1980s, lawsuits alleging vaccine-related injury or death threatened vaccine production, availability, cost and even the development of new vaccines. Coupled with already low profit margins, the vaccine market became unstable. Gross sales of the DTP vaccine in 1980 for all manufacturers fell to about \$3 million. If even a few of the vaccinated children experienced adverse reactions to the DTP vaccine and recovered \$1 million each, for a lifetime of mental impairment, then damages would easily exceed total sales. Costs associated with researching new vaccines and the uncertainty created by liability once the vaccine was approved by the Food and Drug Administration and marketed, further jeopardized future vaccine development.

In an attempt to address liability projections, manufacturers either raised their prices, the DTP vaccine rose from \$.19 in 1980 to more than \$12.00 by 1986, or left the vaccine market entirely. By the mid-1980’s, the number of manufacturers of DTP vaccine declined from seven to one and the Nation experienced a critical shortage of vaccine. As a result, we stopped immunizing 2 year olds, leaving them vulnerable to whooping cough, diphtheria, and tetanus.

In 1986, Congress established the Vaccine Injury Compensation Program, VICP, as part of the National Childhood Vaccine Injury Act. The VICP was created to address two major goals: To provide compensation to those who suffered rare but serious side effects from vaccines and to stabilize the vaccine production and supply market. The VICP was established as a Federal “no-fault” compensation system to compensate individuals who have been injured by certain covered childhood vaccines. While vaccine-injured parties are required to file claims under the VICP before filing lawsuits, proof requirements are much lower than in court and procedures are simplified for injuries that are listed on the Vaccine Injury Table. The balance that was struck was that the burden of proving causation was significantly reduced for VICP claimants, while the litigation burden on manufacturers and administrators of covered vaccines is decreased.

The Vaccine Affordability and Availability Act seeks to ensure the VICP balance between fairness to claimants seeking compensation for vaccine-related injury or death and stability for continued vaccine production is strengthened. It further addresses the concerns of claimants who file for compensation under VICP, in large part based on recommendations made by the Advisory Commission on Childhood Vaccines, ACCV. Because family plays such an important role in the rehabilitation and treatment of a child injured by a vaccine, the legislation allows VICP awards to cover family counseling and guardianship costs.

Additionally, the bill raises the payment ceiling on two capped payments that have not been raised since the VICP was implemented in 1988. The legislation also lengthens the filing deadline so that petitioners may have more time to adequately assess the life care and medical needs of a vaccine-injured child before filing and adjudicating a VICP claim. It also allows claimants to recover interim costs before final judgment is reached, to ease the financial strain on petitioners for costs associated with filing a VICP claim. The bill also broadened the membership criteria so that an adult who has been injured by a vaccine may participate on the ACCV. Finally, the legislation makes clear that all of these changes apply to pending and future VICP claims.

Today, only two American companies and two European companies sell vaccines in the United States. The United States is currently experiencing shortages in 5 of the 9 recommended childhood vaccines, for which there are only four manufacturers licensed to sell in the United States. Once again, the threat of liability and the cost of litigation pose challenges to the stability of our vaccine supply. According to the March 18, 2002 edition of *Forbes* magazine, the profit margin for vaccines is very slim. Just one of the pending class action lawsuits seeks \$30 billion in damages. The entire global value of the vaccine market, all around the world, is only \$5 billion.

The “Vaccine Affordability and Availability Act” simply ensures that the VICP’s goal of stabilizing the vaccine market is not jeopardized. In establishing the VICP in 1986, Congress sought to ensure that individuals claiming injury from covered vaccines must first file for compensation under the VICP. Some individuals, however, have attempted to evade this requirement by arguing, for example, that a preservative used in a vaccine, and included in the vaccine’s product license application and product label, is not itself a “vaccine” so the VICP restrictions do not apply to claims for injuries caused by preservatives. This bill restates the original intent of the law, that a vaccine is all the ingredients and components which are approved by FDA to be in the product.

The bill makes necessary clarifications to the VICP to ensure that unwarranted litigation does not again destabilize the vaccine market causing the few manufacturers licensed to sell vaccines in the United States to leave the market resulting in even more serious shortages of essential vaccines. It clarifies that a vaccine-injured person must timely file a petition and complete the VICP process before third parties may bring a civil action in connection with that person's injuries. The bill adopts the ACCV recommendation that clarifies that certain well-defined medical conditions such as structural lesions and genetic disorders may be considered to be "factors unrelated," and therefore non-compensable under VICP, to a vaccine, even if the exact defect in the gene, for example, is unknown. The legislation also clarifies that vaccine manufacturers and administrators cannot be sued unless there is evidence that a vaccine has caused present physical harm, they cannot be sued for medical monitoring to look for some theoretical future harm. The bill clarifies the definition of manufacturer to specify that a vaccine includes all components or ingredients of the vaccine and clarifies the existing law to ensure that any component or ingredient listed in a vaccine's product license application or label will not be considered to be an adulterant or contaminant. As with the changes we are making for VICP claimants, these changes would apply to pending and future VICP claims.

This bill also requires that the Secretary of HHS prioritize, acquire and maintain a 6-month supply of vaccines to address future vaccine shortages and delays in production and authorizes new funds for this purpose. By authorizing additional funding for grants to State and local governments to increase influenza immunization rates for high risk populations and by authorizing funding to increase immunization rates for adolescents and adults who are medically underserved and at risk for vaccine-preventable diseases, this bill seeks to meet the challenge of improving adolescent and adult immunization rates. Finally, it ensures that colleges, universities and prisons are given information about the availability of a vaccine for bacterial meningitis and that health care clinics and providers are given information about the availability of hepatitis A and B vaccines.

In summary, the "Vaccine Affordability and Availability Act" clarifies, updates, and streamlines the existing Vaccine Injury Compensation Program to address concerns of petitioners to the program, to ensure that we are better prepared for normal market shortages and delays in production and that unwarranted litigation does not further destabilize our vaccine supply. I urge my colleagues to support this much needed legislation to improve the way the VICP operates for claimants seeking compensation and for manu-

facturers and administrators of vaccines seeking greater certainty in liability exposure, which, in turn, will stabilize vaccine production.

This bill will help to ensure that the balance between the two very important goals of the Vaccine Injury Compensation Program is maintained: To provide for fair and expeditious compensation for persons injured by covered vaccines; and to ensure a stable supply of vaccines by avoiding unwarranted litigation relating to vaccine-related injuries and deaths. I urge my colleagues to support and pass this much needed legislation at a time when liability concerns once again threaten our vaccine supply.

I ask unanimous consent 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. 2053

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Improved Vaccine Affordability and Availability Act".

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

Sec. 1. Short title; table of contents.

TITLE I—STATE VACCINE GRANTS

Sec. 101. Availability of influenza vaccine.

Sec. 102. Program for increasing immunization rates for adults and adolescents; collection of additional immunization data.

Sec. 103. Immunization awareness.

Sec. 104. Supply of vaccines.

TITLE II—VACCINE INJURY COMPENSATION PROGRAM

Sec. 201. Administrative revision of vaccine injury table.

Sec. 202. Equitable relief.

Sec. 203. Parent petitions for compensation.

Sec. 204. Jurisdiction to dismiss actions improperly brought.

Sec. 205. Application.

Sec. 206. Clarification of when injury is caused by factor unrelated to administration of vaccine.

Sec. 207. Increase in award in the case of a vaccine-related death and for pain and suffering.

Sec. 208. Basis for calculating projected lost earnings.

Sec. 209. Allowing compensation for family counseling expenses and expenses of establishing guardianship.

Sec. 210. Allowing payment of interim costs.

Sec. 211. Procedure for paying attorneys' fees.

Sec. 212. Extension of statute of limitations.

Sec. 213. Advisory commission on childhood vaccines.

Sec. 214. Clarification of standards of responsibility.

Sec. 215. Clarification of definition of manufacturer.

Sec. 216. Clarification of definition of vaccine-related injury or death.

Sec. 217. Clarification of definition of vaccine.

Sec. 218. Conforming amendment to trust fund provision.

Sec. 219. Ongoing review of childhood vaccine data.

Sec. 220. Pending actions.

Sec. 221. Report.

TITLE I—STATE VACCINE GRANTS

SEC. 101. AVAILABILITY OF INFLUENZA VACCINE.

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended by adding at the end the following:

"(3)(A) For the purpose of carrying out activities relating to influenza vaccine under the immunization program under this subsection, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 and 2004. Such authorization shall be in addition to amounts available under paragraphs (1) and (2) for such purpose.

"(B) The authorization of appropriations established in subparagraph (A) shall not be effective for a fiscal year unless the total amount appropriated under paragraphs (1) and (2) for the fiscal year is not less than such total for fiscal year 2000.

"(C) The purposes for which amounts appropriated under subparagraph (A) are available to the Secretary include providing for improved State and local infrastructure for influenza immunizations under this subsection in accordance with the following:

"(i) Increasing influenza immunization rates in populations considered by the Secretary to be at high risk for influenza-related complications and in their contacts.

"(ii) Recommending that health care providers actively target influenza vaccine that is available in September, October, and November to individuals who are at increased risk for influenza-related complications and to their contacts.

"(iii) Providing for the continued availability of influenza immunizations through December of such year, and for additional periods to the extent that influenza vaccine remains available.

"(iv) Encouraging States, as appropriate, to develop contingency plans (including plans for public and professional educational activities) for maximizing influenza immunizations for high-risk populations in the event of a delay or shortage of influenza vaccine.

"(D) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, periodic reports describing the activities of the Secretary under this subsection regarding influenza vaccine. The first such report shall be submitted not later than June 6, 2003, the second report shall be submitted not later than June 6, 2004, and subsequent reports shall be submitted biennially thereafter."

SEC. 102. PROGRAM FOR INCREASING IMMUNIZATION RATES FOR ADULTS AND ADOLESCENTS; COLLECTION OF ADDITIONAL IMMUNIZATION DATA.

(a) ACTIVITIES OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)), as amended by section 101, is further amended by adding at the end the following:

"(4)(A) For the purpose of carrying out activities to increase immunization rates for adults and adolescents through the immunization program under this subsection, and for the purpose of carrying out subsection (k)(2), there are authorized to be appropriated \$50,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Such authorization is in addition to amounts available under paragraphs (1), (2), and (3) for such purposes.

"(B) In expending amounts appropriated under subparagraph (A), the Secretary shall give priority to adults and adolescents who are medically underserved and are at risk for vaccine-preventable diseases, including as appropriate populations identified through projects under subsection (k)(2)(E).

“(C) The purposes for which amounts appropriated under subparagraph (A) are available include (with respect to immunizations for adults and adolescents) the payment of the costs of storing vaccines, outreach activities to inform individuals of the availability of the immunizations, and other program expenses necessary for the establishment or operation of immunization programs carried out or supported by States or other public entities pursuant to this subsection.

“(5) The Secretary shall annually submit to Congress a report that—

“(A) evaluates the extent to which the immunization system in the United States has been effective in providing for adequate immunization rates for adults and adolescents, taking into account the applicable year 2010 health objectives established by the Secretary regarding the health status of the people of the United States; and

“(B) describes any issues identified by the Secretary that may affect such rates.

“(6) In carrying out this subsection and paragraphs (1) and (2) of subsection (k), the Secretary shall consider recommendations regarding immunizations that are made in reports issued by the Institute of Medicine.”.

(b) RESEARCH, DEMONSTRATIONS, AND EDUCATION.—Section 317(k) of the Public Health Service Act (42 U.S.C. 247b(k)) is amended—

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

(2) by inserting after paragraph (1) the following:

“(2) The Secretary, directly and through grants under paragraph (1), shall provide for a program of research, demonstration projects, and education in accordance with the following:

“(A) The Secretary shall coordinate with public and private entities (including non-profit private entities), and develop and disseminate guidelines, toward the goal of ensuring that immunizations are routinely offered to adults and adolescents by public and private health care providers.

“(B) The Secretary shall cooperate with public and private entities to obtain information for the annual evaluations required in subsection (j)(5)(A).

“(C) The Secretary shall (relative to fiscal year 2001) increase the extent to which the Secretary collects data on the incidence, prevalence, and circumstances of diseases and adverse events that are experienced by adults and adolescents and may be associated with immunizations, including collecting data in cooperation with commercial laboratories.

“(D) The Secretary shall ensure that the entities with which the Secretary cooperates for purposes of subparagraphs (A) through (C) include managed care organizations, community-based organizations that provide health services, and other health care providers.

“(E) The Secretary shall provide for projects to identify racial and ethnic minority groups and other health disparity populations for which immunization rates for adults and adolescents are below such rates for the general population, and to determine the factors underlying such disparities.”.

SEC. 103. IMMUNIZATION AWARENESS.

(a) DEVELOPMENT OF INFORMATION CONCERNING MENINGITIS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning bacterial meningitis and the availability and effectiveness of vaccinations for populations targeted by the Advisory Committee of Immunization Prac-

tices (an advisory committee established by the Secretary Health and Human Services, acting through the Centers for Disease Control and Prevention).

(2) ENTITIES.—An entity is described in this paragraph if the entity—

(A) is—

(i) a college or university; or

(ii) a prison or other detention facility; and

(B) is determined appropriate by the Secretary of Health and Human Services.

(b) DEVELOPMENT OF INFORMATION CONCERNING HEPATITIS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning hepatitis A and B and the availability and effectiveness of vaccinations with respect to such diseases.

(2) ENTITIES.—An entity is described in this paragraph if the entity—

(A) is—

(i) a health care clinic that serves individuals diagnosed as being infected with HIV or as having other sexually transmitted diseases;

(ii) an organization or business that counsels individuals about international travel or who arranges for such travel;

(iii) a police, fire or emergency medical services organization that responds to natural or man-made disasters or emergencies;

(iv) a prison or other detention facility;

(v) a college or university; or

(vi) a public health authority or children's health service provider in areas of intermediate or high endemicity for hepatitis A as defined by the Centers for Disease Control and Prevention; and

(B) is determined appropriate by the Secretary of Health and Human Services.

SEC. 104. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall prioritize, acquire, and maintain a supply of such prioritized vaccines sufficient to provide vaccinations throughout a 6-month period.

(b) PROCEEDS.—Any proceeds received by the Secretary of Health and Human Services from the sale of vaccines contained in the supply described in subsection (a), shall be available to the Secretary for the purpose of purchasing additional vaccines for the supply. Such proceeds shall remain available until expended.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out subsection (a) such sums as may be necessary for each of fiscal years 2003 through 2008.

TITLE II—VACCINE INJURY COMPENSATION PROGRAM

SEC. 201. ADMINISTRATIVE REVISION OF VACCINE INJURY TABLE.

The second sentence of section 2114(c)(1) of the Public Health Service Act (42 U.S.C. 300aa-14(c)(1)) is amended to read as follows:

“In promulgating such regulations, the Secretary shall provide for notice and for at least 90 days opportunity for public comment.”.

SEC. 202. EQUITABLE RELIEF.

Section 2111(a)(2)(A) of the Public Health Service Act (42 U.S.C. 300aa-11(a)(2)(A)) is amended by striking “No person” and all that follows through “and—” and inserting the following: “No person may bring or maintain a civil action against a vaccine administrator or manufacturer in a State or Federal court for damages arising from, or equitable relief relating to, a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988 and

no such court may award damages or equitable relief for any such vaccine-related injury or death, unless the person proves present physical injury and a timely petition has been filed, in accordance with section 2116 for compensation under the Program for such injury or death and—”.

SEC. 203. PARENT PETITIONS FOR COMPENSATION.

Section 2111(a)(2) of the Public Health Service Act (42 U.S.C. 300aa-(a)(2)) is amended—

(1) in subparagraph (B), by inserting “or (B)” after “subparagraph (A)”;

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

(3) by inserting after subparagraph (A) the following:

“(B) No parent or other third party may bring or maintain a civil action against a vaccine administrator or manufacturer in a Federal or State court for damages or equitable relief relating to a vaccine-related injury or death, including but not limited to damages for loss of consortium, society, companionship or services, loss of earnings, medical or other expenses, and emotional distress, and no court may award damages or equitable relief in such an action unless the action is joined with a civil action brought by the person whose vaccine-related injury is the basis for the parent's or other third party's action and that person has satisfied the conditions of subparagraph (A).”.

SEC. 204. JURISDICTION TO DISMISS ACTIONS IMPROPERLY BROUGHT.

Section 2111(a)(3) of the Public Health Service Act (42 U.S.C. 300aa-11(a)(3)) is amended by adding at the end the following: “If any civil action which is barred under subparagraph (A) or (B) of paragraph (2) is filed or maintained in a State court, or any vaccine administrator or manufacturer is made a party to any civil action brought in State court (other than a civil action which may be brought under paragraph (2)) for damages or equitable relief for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, the civil action may be removed by the defendant or defendants to the United States Court of Federal Claims, which shall have jurisdiction over such civil action, and which shall dismiss such action. The notice required by section 1446 of title 28, United States Code, shall be filed with the United States Court of Federal Claims, and that court shall proceed in accordance with sections 1446 through 1451 of title 28, United States Code.”.

SEC. 205. APPLICATION.

Section 2111(a)(9) of the Public Health Service Act (42 U.S.C. 300aa-11(a)(9)) is amended by striking “This” and inserting “Except as provided in subsection(a)(2), this”.

SEC. 206. CLARIFICATION OF WHEN INJURY IS CAUSED BY FACTOR UNRELATED TO ADMINISTRATION OF VACCINE.

Section 2113(a)(2)(B) of the Public Health Service Act (42 U.S.C. 300aa-13(a)(2)(B)) is amended—

(1) by inserting “structural lesions, genetic disorders,” after “and related anoxia”;

(2) by inserting “(without regard to whether the cause of the infection, toxin, trauma, structural lesion, genetic disorder, or metabolic disturbance is known)” after “metabolic disturbances”; and

(3) by striking “but” and inserting “and”.

SEC. 207. INCREASE IN AWARD IN THE CASE OF A VACCINE-RELATED DEATH AND FOR PAIN AND SUFFERING.

Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa-15(a)) is amended—

(1) in paragraph (2), by striking “\$250,000” and inserting “\$350,000”; and

(2) in paragraph (4), by striking “\$250,000” and inserting “\$350,000”.

SEC. 208. BASIS FOR CALCULATING PROJECTED LOST EARNINGS.

Section 2115(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300aa-15(a)(3)(B)) is amended by striking “loss of earnings” and all that follows and inserting the following: “loss of earnings determined on the basis of the annual estimate of the average (mean) gross weekly earnings of wage and salary workers age 18 and over (excluding the incorporated self-employed) in the private non-farm sector (which includes all industries other than agricultural production crops and livestock), as calculated annually by the Bureau of Labor Statistics from the quarter sample data of the Current Population Survey, or as calculated by such similar method as the Secretary may prescribe by regulation, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.”.

SEC. 209. ALLOWING COMPENSATION FOR FAMILY COUNSELING EXPENSES AND EXPENSES OF ESTABLISHING GUARDIANSHIP.

(a) FAMILY COUNSELING EXPENSES IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa-15(a)) is amended by adding at the end to the following:

“(5) Actual unreimbursable expenses that have been or will be incurred for family counseling as is determined to be reasonably necessary and that result from the vaccine-related injury from which the petitioner seeks compensation.”.

(b) EXPENSES OF ESTABLISHING GUARDIANSHIPS IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa-15(a)), as amended by subsection (a), is further amended by adding at the end the following:

“(6) Actual unreimbursable expenses that have been, or will be reasonably incurred to establish and maintain a guardianship or conservatorship for an individual who has suffered a vaccine-related injury, including attorney fees and other costs incurred in a proceeding to establish and maintain such guardianship or conservatorship.”.

(c) CONFORMING AMENDMENT FOR CASES FROM 1988 AND EARLIER.—Section 2115(b) of the Public Health Service Act (42 U.S.C. 300aa-15(b)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by inserting a closed parenthesis before the period in that paragraph;

(3) by redesignating paragraph (3) as paragraph (5); and

(4) by inserting after paragraph (2), the following:

“(3) family counseling expenses (as provided for in paragraph (5) of subsection (a));

“(4) expenses of establishing guardianships (as provided for in paragraph (6) of subsection (a)); and”.

SEC. 210. ALLOWING PAYMENT OF INTERIM COSTS.

Section 2115(e) of the Public Health Service Act (42 U.S.C. 300aa-15(e)) is amended by adding at the end the following:

“(4) A special master or court may make an interim award of costs if—

“(A) the case involves a vaccine administered on or after October 1, 1988;

“(B) the award is limited to other costs (within the meaning of paragraph (1)(B)) incurred in the proceeding; and

“(C) the petitioner provides documentation verifying the expenditure of the amount for which compensation is sought.”.

SEC. 211. PROCEDURE FOR PAYING ATTORNEYS' FEES.

Section 2115(e) of the Public Health Service Act (42 U.S.C. 300aa-15(e)), as amended by

section 205, is further amended by adding at the end the following:

“(5) When a special master or court awards attorney fees or costs under paragraph (1) or (4), it may order that such fees or costs be payable solely to the petitioner's attorney if—

“(A) the petitioner expressly consents; or

“(B) the special master or court determines, after affording to the Secretary and to all interested persons the opportunity to submit relevant information, that—

“(i) the petitioner cannot be located or refuses to respond to a request by the special master or court for information, and there is no practical alternative means to ensure that the attorney will be reimbursed for such fees or costs expeditiously; or

“(ii) there are otherwise exceptional circumstances and good cause for paying such fees or costs solely to the petitioner's attorney.”.

SEC. 212. EXTENSION OF STATUTE OF LIMITATIONS.

(a) GENERAL RULE.—Section 2116(a) of the Public Health Service Act (42 U.S.C. 300aa-16(a)) is amended—

(1) in paragraph (2) by striking “36 months” and inserting “6 years”; and

(2) in paragraph (3), by striking “48 months” and inserting “6 years”.

(b) CLAIMS BASED ON REVISIONS TO TABLE.—Strike all of section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa-16(b)) and insert the following:

“(b) EFFECT OF REVISED TABLE.—If at any time the Vaccine Injury Table is revised and the effect of such revision is to make an individual eligible for compensation under the program, where, before such revision, such individual was not eligible for compensation under the program, or to significantly increase the likelihood that an individual will be able to obtain compensation under the program, such person may, and must before filing a civil action for equitable relief or monetary damages, notwithstanding section 2111(b)(2), file a petition for such compensation if—

“(1) the vaccine-related death or injury with respect to which the petition is filed occurred not more than 8 years before the effective date of the revision of the table; and

“(2) either—

“(A) the petition satisfies the conditions described in subsection (a); or

“(B) the date of the occurrence of the first symptom or manifestation of onset of the injury occurred more than 4 years before the petition is filed, and the petition is filed not more than 2 years after the effective date of the revision of the table.”.

SEC. 213. ADVISORY COMMISSION ON CHILDHOOD VACCINES.

(a) SELECTION OF PERSONS INJURED BY VACCINES AS PUBLIC MEMBERS.—Section 2119(a)(1)(B) of the Public Health Service Act (42 U.S.C. 300aa-19(a)(1)(B)) is amended by striking “of whom” and all that follows and inserting the following: “of whom 1 shall be the legal representative of a child who has suffered a vaccine-related injury or death, and at least 1 other shall be either the legal representative of a child who has suffered a vaccine-related injury or death or an individual who has personally suffered a vaccine-related injury.”.

(b) MANDATORY MEETING SCHEDULE ELIMINATED.—Section 2119(c) of the Public Health Service Act (42 U.S.C. 300aa-19(c)) is amended by striking “not less often than four times per year and”.

SEC. 214. CLARIFICATION OF STANDARDS OF RESPONSIBILITY.

(a) GENERAL RULE.—Section 2122(a) of the Public Health Service Act (42 U.S.C. 300aa-22(a)) is amended by striking “and (e) State

law shall apply to a civil action brought for damages” and inserting “(d), and (f) State law shall apply to a civil action brought for damages or equitable relief”; and

(b) UNAVOIDABLE ADVERSE SIDE EFFECTS.—Section 2122(b)(1) of the Public Health Service Act (42 U.S.C. 300aa-22(b)(1)) is amended by inserting “or equitable relief” after “for damages”.

(c) DIRECT WARNINGS.—Section 2122(c) of the Public Health Service Act (42 U.S.C. 300aa-22(c)) is amended by inserting “or equitable relief” after “for damages”.

(d) CONSTRUCTION.—Section 2122(d) of the Public Health Service Act (42 U.S.C. 300aa-22(d)) is amended—

(1) by inserting “or equitable relief” after “for damages”; and

(2) by inserting “or relief” after “which damages”.

(e) PRESENT PHYSICAL INJURY.—Section 2122 of the Public Health Service Act (42 U.S.C. 300aa-22) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

“(d) PRESENT PHYSICAL INJURY.—No vaccine manufacturer or vaccine administrator shall be liable in a civil action brought after October 1, 1988, for equitable or monetary relief absent proof of present physical injury from the administration of a vaccine, nor shall any vaccine manufacturer or vaccine administrator be liable in any such civil action for claims of medical monitoring, or increased risk of harm.”.

SEC. 215. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa-33(3)) is amended—

(1) in the first sentence, by striking “under its label any vaccine set forth in the Vaccine Injury Table” and inserting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine”; and

(2) in the second sentence, by inserting “including any component or ingredient of any such vaccine” before the period.

SEC. 216. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa-33(5)) is amended by adding at the end the following: “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.”.

SEC. 217. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa-33) is amended by adding at the end the following:

“(7) The term ‘vaccine’ means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccine's product license application and product label.”.

SEC. 218. CONFORMING AMENDMENT TO TRUST FUND PROVISION.

Section 9510(c)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “October 18, 2000” and inserting “the effective date of the Improved Vaccine Affordability and Availability Act”.

SEC. 219. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

Part C of title XXI of the Public Health Service Act (42 U.S.C. 300a-25 et seq.) is amended by adding at the end the following:

"SEC. 2129. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Science under which the Institute shall conduct an ongoing, comprehensive review of new scientific data on childhood vaccines (according to priorities agreed upon from time to time by the Secretary and the Institute of Medicine).

"(b) REPORTS.—Not later than 3 years after the date on which the contract is entered into under paragraph (1), the Institute of Medicine shall submit to the Secretary a report on the findings of studies conducted, including findings as to any adverse events associated with childhood vaccines, including conclusions concerning causation of adverse events by such vaccines, together with recommendations for changes in the Vaccine Injury Table, and other appropriate recommendations, based on such findings and conclusions.

"(c) FAILURE TO ENTER INTO CONTRACT.—If the Secretary and the Institute of Medicine are unable to enter into the contract described in paragraph (1), the Secretary shall enter into a contract with another qualified nongovernmental scientific organization for the purposes described in paragraphs (1) and (2).

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003, 2004, 2005 and 2006."

SEC. 220. PENDING ACTIONS.

The amendments made by this title shall apply to all actions or proceedings pending on or after the date of enactment of this Act.

SEC. 221. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit recommendations regarding how to address the growing surplus in the Vaccine Trust Fund, and the rationale for such recommendations to—

- (1) the Health, Education, Labor and Pensions Committee of the Senate;
- (2) the Finance Committee of the Senate;
- (3) the Energy and Commerce Committee of the House of Representatives; and
- (4) the Ways and Means Committee of the House of Representatives.

By Ms. CANTWELL:

S. 2055. A bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President, I rise today to introduce the Debbie Smith Act, a bill to provide law enforcement the tools to track and convict sexual assailants, and to help ensure that rape survivors are provided prompt treatment that also provides the dignity and respect they deserve. This bill addresses a serious problem in this country, the huge DNA backlog and uneven processing of DNA evidence in rape cases.

According to the Department of Justice, somewhere in America, a woman is raped every two minutes. One in

three women will be raped in her lifetime. In my home State of Washington the number of sexual assaults is even higher. According to the Washington State Office of Crime Victims Advocacy 38 percent of women in my State have been sexually assaulted. This is unacceptable.

Debbie Smith, is a native of Roanoke, VA, who was brutally raped in the woods behind her house in March 1989. Six years later, because evidence had been properly preserved, her assailant's DNA profile was cross-referenced with the Virginia DNA Databank and was found to match the DNA of a current prison inmate. He was convicted of the rape and was sentenced to two life terms plus 25 years. Debbie Smith has since become a national spokesperson on the importance of collecting and analyzing DNA samples.

As Debbie Smith and women in my State have come to know collecting, analyzing, and entering this critical DNA information evidence into the Combined DNA System, CODIS, database is often the key to finding and convicting a sexual assailant and stopping him from attacking again. Unfortunately, many jurisdictions throughout the country do not have the funding for this simple, yet vital process. Consequently, crime scene kits go unanalyzed and valuable DNA information is lost forever.

Today, over 20,000 DNA samples are sitting useless in storage. These samples could be holding the clues needed to solve crimes, or even to track a serial rapist. This means 20,000 women who had the courage to report their rape may never find the peace of mind of someone knowing their assailant has been caught.

By authorizing funding to carry out analyses on crime scenes samples and cross-reference DNA evidence with crime databanks, this bill provides law enforcement with the tools necessary for an effective and successful criminal investigation.

The bill also provides grants to broaden the use of the Sexual Assault Nurse Examiners program. The SANE program provides nurses and first responders with specific training so that critical forensic evidence is thoroughly collected and documented and that sexual assault survivors are treated with professional care in a confidential and sensitive environment. SANE nurses can make the difference to women facing one of the most difficult events of their lives. And, SANE nurses can make the difference in sending valuable information to crime laboratories rather than improperly collected evidence that is impossible to analyze.

In 1995, a young woman at home in Olympia, WA, was raped at gunpoint. At St. Peter Hospital later that night, she said the SANE nurses who collected DNA evidence after the assault "made [her] feel at ease, more confident, and more comfortable." The SANE nurses' training in proper evidence collection proved equally valu-

able. The DNA evidence collected, when cross-referenced with the CODIS was databank matched that of a convicted serial rapist Jeffrey Paul McKechnie, the "I-5 Rapist," resulting in his conviction for the crime.

This bill is a reasonable and necessary step that needs to be taken to address the backlog of DNA samples from rape cases across the country, and to broaden the use of the SANE program to improve and standardize the collection of forensic evidence while also addressing the physical and psychological needs of the victim. This bill makes sure that we can catch the next Jeffrey Paul McKechnie and make our streets safer. I look forward to working with my colleagues to pass this bill and get the necessary funding to address the DNA backlog in this critical area once and for all.

By Mr. NELSON of Florida (for himself and Mrs. CARNAHAN):

S. 2056. A bill to ensure the independence of accounting firms that provide auditing services to publicly traded companies and of executives, audit committees, and financial compensation committees of such companies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. NELSON of Florida. Mr. President, I rise today to introduce the Integrity in Auditing Act. I am introducing this bill with my colleague from the Commerce Committee, Senator JEAN CARNAHAN of Missouri. This legislation presents a comprehensive approach to securities reform as a key element in protecting America's shareholders and consumers in our capitalist system. We look forward to the Commerce Committee's Subcommittee on Consumer Affairs, Foreign Commerce and Tourism hearings in April on these issues.

I am focusing my review of the Enron collapse on institutional investors, like State pension funds representing the guaranteed retirement plans of our police officers, firefighters, teachers, and other State and local workers. The Florida Pension Fund took a bath from investing in Enron, and it cost my State plenty. I want to protect the taxpayers and prevent large losses in our public pension systems in the future.

The legislation I am introducing today addresses the safety nets intended to protect investors like State pension funds against abuses. The Integrity in Auditing Act prohibits auditors from providing any nonaudit services to their audit clients. The bill allows auditors to perform tax consulting services with the approval of a company's Audit Committee. Additionally, the bill prohibits outside accountants from working in a management job for a client company for 1 year. These key provisions, essential to any reform effort, are similar to those found in other bills including a bill introduced by my colleagues, Senators CORZINE and DODD.

The legislation adds additional safeguards for the investing public, including State pension funds. The bill requires that companies rotate their outside auditors every 7 years. The company can continue its relationship with the auditing firm through nonaudit client services.

The Enron collapse poses a challenge to us in designing a system of corporate governance that secures better financial disclosure for the future. In my view the best response to Arthur Andersen's precarious state is to make sure our efforts to reform the profession enables the auditing profession to continue their needed work in our capital markets with the potential loss of one big player. The legislation I introduce today strives to meet that objective.

In addition to protecting the integrity of the auditing process, this legislation recognizes that independent directors should effectively monitor management behavior and represent the interests of the shareholder. The Council of Institutional Investors and others have called for auditor and board independence. Accordingly, the Integrity in Auditing Act requires enhanced disclosure of director links to companies.

The bill requires that a company disclose, with every filing, any board of director relationship, familial, professional, financial, to the company. This legislation also requires that all Audit and Compensation Committee members must be independent directors.

We should be clear that the Securities and Exchange Commission impose a swift and serious approach to improving our corporate governance systems. This bill includes a sense of the Senate that the SEC should take a tough enforcement approach, including criminal prosecutions, if warranted.

One of the biggest casualties of Enron's bankruptcy filing is the growing lack of confidence and trust by consumers, employees, and investors in the financial statements of companies. Willful blindness of companies leads to fuzzy disclosures. Cozy relationships among company executives, its auditors and board of directors, money managers, Wall Street analysts, lawyers, and others, cry out for reform. Our public institutional investors like state pension funds deserve no less.

Mr. President, I recently read Teddy Roosevelt's 1902 annual message to Congress. Our 26th President was known as a Trust Buster. He told the truth about our free enterprise system. He said "We can do nothing of good in the way of regulating corporations until we fix clearly in our minds that we are not attacking corporations; we are merely determined that they shall be so handled as to serve the public good. We draw the line against misconduct, not against wealth."

We can all learn from history as we proceed to find thoughtful and appropriate ways to reform our securities laws on behalf of the public.

Mrs. CARNAHAN. Mr. President, today my friend, Senator NELSON of Florida, and I are introducing important legislation to restore accountability to the accounting industry. The Integrity in Auditing Act will help renew Americans' confidence in our financial markets. Investors rely on the financial information that is provided by companies and certified by independent auditors. This legislation is designed to make sure that these auditors are truly independent.

Over the course of the last few months, I have been looking into the devastating events related to the collapse of the Enron Corporation. As a member of both the Governmental Affairs Committee and the Commerce Committee, I have participated in numerous hearings on this matter. We have heard testimony from many experts about the different things that went wrong at Enron. The shareholders were failed by many parties who were supposed to be looking out for their interests: the company executives, the board of directors, the Government watchdogs, and certainly, the accountants who certified that Enron's financial statements were accurate.

But, this is not just about Enron. This is about the disturbing number of restatements that firms have filed in recent years. It is no longer uncommon for a company to say that profits they previously touted were actually fictitious. This is absolutely unacceptable. And to the extent that inaccurate accounting can be eliminated by removing any conflicts of interest that are preventing better audits, Congress must act quickly to do so.

Let me be clear, that I have the deepest respect for the many accountants in this country who are extremely hard working and honest. This legislation is not meant to impugn individual accountants or the accounting industry. Rather, it will improve this industry. The Integrity in Auditing Act will ensure that accountants can do their jobs with the highest professionalism, free from any pressures to overlook suspicious bookkeeping by their clients.

The reforms we propose today are urgent and in the interest of all Americans. Auditors who simply rubber stamp questionable financial reports for their clients do a tremendous disservice to all investors. If they prevent true and accurate information from coming to light, auditors endanger the hard earned savings of working Americans. Many parents are investing money every year to pay for the college expenses of their children. Many workers are saving for their golden years in 401(k) plans or other retirement accounts. Young couples, saving to buy their first homes, often put money into mutual funds or money market accounts. All of these investors are entitled to accurate information so that they can make wise decisions about their savings.

This legislation is an important step toward ensuring that investors can

trust the financial information provided by companies. Let me briefly summarize how this legislation establishes the independence of auditors. First, it prohibits audit firms from providing non-audit services to their clients. An exception is made if the client's Audit Committee believes it is in the best interest of the shareholders to also receive tax services consulting from the audit firm. But it will prevent companies from engaging in extremely lucrative management consulting or technology consulting contracts with the auditors who ought to be providing unbiased assessments of the companies' financial health.

Second, this legislation requires that every seven years a company rotate the firm that performs its independent audit. Arthur Levitt, the former chairman of the Securities and Exchange Commission made it very clear why such rotation is important. In his testimony before the Senate Banking Committee he proposed that audit firms ought to be rotated in order "to ensure that fresh and skeptical eyes are always looking at the numbers."

This legislation will also close the revolving door that could compromise independent auditors. It prohibits outside accountants from working, in a management capacity, for a client company for a period of 1 year. This simple restriction will ensure that shareholders, and not company management, remain an auditor's primary concern.

In the interest of providing full information to investors, our legislation also requires that any connections between the company and a member of the board of directors be fully disclosed, whether those connections are familial, financial, or professional. It also prohibits any directors who have such potential conflicts of interest from serving on the board's audit or compensation committees.

Lastly, this legislation would express the sense of the Senate that the Securities and Exchange Commission ought to take a tough approach to the enforcement of securities laws.

America has the most vibrant and dynamic economy in the world. The foundation of our economy is our capital markets, which are robust and resilient. But the success of these markets depends on the free flow of accurate, reliable information. Our markets are the envy of the world because of the confidence investors have in the private and public institutions that produce, verify, and analyze this information.

The legislation we are introducing today will improve our markets. It will restore public confidence in auditors. And it frees accountants from any inappropriate conflicts of interest. I encourage my colleagues to support this bill.

By Mrs. LINCOLN (for herself,
Mr. BREAU, and Mr. ROCKEFELLER):

S. 2058. A bill to replace the caseload reduction credit with an employment credit under the program of block grants to States for temporary assistance for needy families, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the "Making Work Pay Act of 2002." A companion bill is being introduced in the House by Representative SANDY LEVIN of Michigan. I worked with Mr. LEVIN to reform the welfare program in 1996, and I am proud and honored to work with him again in this next phase of welfare reform.

I am also proud to be joined today by Senator BREAUX of Louisiana and Senator ROCKEFELLER of West Virginia. As members of the Finance Committee and representatives of rural States with similar challenges, we all share the goal of ensuring that States have the resources and the flexibility they need to continue moving people from welfare to work.

The welfare reform bill President Clinton signed into law in 1996 has been a success. Nationally, welfare rolls have dropped by 52 percent. Over the last 5 years, enrollment in Arkansas' welfare program has dropped by 43 percent.

In 1996, we fundamentally changed welfare from an entitlement program to temporary assistance, a move which has allowed many needy families to achieve a liberating measure of self-sufficiency. Our message then was "work first." Today, people are working. Now our message should be "make work pay." To do this, we need to help people get good paying jobs by providing the support services like child care and transportation that are absolutely essential to keeping those jobs.

We have rewarded States for moving people off welfare. Unfortunately, that tends to ignore the important question of what happens after they leave welfare. What we need to do now is find ways to reward States for placing people into good jobs and helping them with vital work support services such as child care and transportation. These services are particularly vital in States like Arkansas, where good child care is scarce and public transportation barely exists.

The legislation we introduce today measures State performance along the entire continuum from welfare to work. It gives credit to States for providing work-support services and short-term emergency assistance, which prevent people from ever needing welfare benefits in the first place. Current law and President Bush's welfare reauthorization proposal give no credit to States for these efforts, thus discouraging the use of these highly effective welfare-to-work methods.

My legislation revises how work participation rates are calculated to better fit post-reform welfare programs and more accurately measure the level of work activity among those served.

Specifically, States receive half credit for people who work part time and prorate to full time, and they receive full credit for people that they are able to move into work by supplying child care and transportation assistance. In addition, people who are deemed severely and permanently disabled during the year are excluded from the State's work participation requirement, so that states aren't penalized for failing to engage these disabled people in work.

The "Making Work Pay Act of 2002" is supported by the American Public Human Services Association, which played a fundamental role in helping us develop this bill. I thank them for their support and urge my colleagues to use them as a resource in assessing the needs of their states. I also urge my colleagues to support this legislation as a necessary first step into the next phase of welfare reform, to move beyond "work first" to "making work pay."

By Ms. MIKULSKI (for herself,
Mr. KENNEDY, Mr. HUTCHINSON,
and Mr. DODD):

S. 2059. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise to introduce the Alzheimer's Disease Research, Prevention, and Care Act of 2002. I am pleased that Senator KENNEDY and Senator HUTCHINSON are joining me as original cosponsors of this legislation. This bill expands and directs Alzheimer's disease research at the National Institutes of Health (NIH), and expands and reauthorizes the Alzheimer's Demonstration Grant Program. This important legislation gets behind our Nation's families, both in the lab and in the community.

Alzheimer's disease is a devastating illness. Four million Americans including one in 10 people over age 65 and nearly half of those over 85, have Alzheimer's disease. The total annual Cost of Alzheimer's care in the United States today is at least \$100 billion.

As our population ages and baby-boomers become seniors, Alzheimer's disease will take an even greater toll. Unless science finds a way to prevent or cure Alzheimer's disease, 14 million people in the United States will have Alzheimer's disease by the year 2050. The race to find a cure is more urgent than ever.

But these statistics do not begin to tell the story of what Alzheimer's means to families. My dear father suffered from Alzheimer's disease. My family and I watched him die one brain cell at a time. I know the pain that patients and families go through when Alzheimer's disease strikes.

I believe that honor thy mother and father is not only a good commandment to live by, it is also a good policy to govern by. That's why I have intro-

duced this legislation that meets the day-to-day needs of seniors and the long-range needs of our Nation.

The Alzheimer's Disease Research, Prevention, and Care meets seniors' day-to-day needs by reauthorizing the Alzheimer's Demonstration Grant Program. The purpose of the program is to develop and replicate innovative ways to provide care to Alzheimer's patients that are traditionally hard to reach or undeserved. These grants enable States to provide support services like home care, respite care, and day care to Alzheimer's patients and their families. This legislation expands the Alzheimer's Demonstration Program by authorizing the funding needed to support these outstanding programs in every State.

In my own State of Maryland, Alzheimer's Demonstration grants have been used to train workers at nursing homes and assisted living facilities to care for people with dementia. This training means that Alzheimer's patients will get high quality care when they leave their homes and enter a nursing home. And it means that families can rest assured that their mom or dad is safe and in good hands.

This legislation also meets the long term needs of our aging Nation by expanding and directing Alzheimer's disease research at the National Institute on Aging.

Our best shot at curbing the number of families who suffer from Alzheimer's disease is to find ways to prevent it before it starts. This bill authorizes the Alzheimer's Disease Prevention Initiative. The National Institute on Aging is currently conducting seven prevention trials. The Alzheimer's Disease Research, Prevention, and Care Act supports the National Institute on Aging's Prevention Initiative and directs the Institute to focus its efforts on identifying possible ways to prevent Alzheimer's and conducting clinical trials to test their effectiveness.

Clinical trials can involve millions of dollars, tens of thousands of participants, and years or even decades. This bill establishes an Alzheimer's Disease Cooperative Study Group to improve and enhance the National Institute on Aging's ability to conduct several large scale, complex clinical trials simultaneously. Promising therapies should not have to wait to be tested until current trials are complete and resources are made available. This legislation authorizes a national consortium for cooperative clinical research at the National Institute on Aging to improve the existing clinical trial infrastructure, develop novel approaches to design these clinical trials, and make it easier to enroll patients.

This bill directs the National Institute on Aging, in consultation with other relevant institutes, to conduct research on the early diagnosis and detection of Alzheimer's disease. As promising therapies become available that can delay the progression of Alzheimer's, new technologies are needed

to detect and diagnose the disease before its symptoms strike.

There is still much that is not known about the causes of Alzheimer's disease. In the last few years, for example, scientists have found that in stroke patients who later develop Alzheimer's disease, their dementia will worsen much more quickly than in Alzheimer's patients who have never had a stroke. This bill directs the National Institute on Aging to study this connection between vascular disease and Alzheimer's disease. Finding answers to questions about this connection will open new doors for researchers to explore promising ways to prevent and treat Alzheimer's disease.

This legislation establishes a research program at the National Institute on Aging on ways to help caregivers of patients with Alzheimer's disease. Family caregiving comes at enormous physical, emotional, and financial sacrifice, which puts the whole system at risk. Three of four caregivers are women. One in eight Alzheimer caregivers becomes ill or injured as a direct result of caregiving, and older caregivers are three times more likely to become clinically depressed than others in their age group. Research is needed to find better ways to help caregivers bear this tremendous, at times overwhelming responsibility.

Finally, this legislation increases the funding authorized for the National Institute on Aging to \$1.5 billion in fiscal year 2003. Investments we make now in Alzheimer's Disease and aging research mean longer, healthier lives for all of us. If science can help us delay the onset of Alzheimer's by even 5 years, it would save this country billions of dollars—and would improve the lives of millions of families.

I look forward to working with my colleagues to pass this important legislation that gets behind our nation's families. I ask unanimous consent that a letter of support from the Alzheimer's Association be printed in the RECORD.

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

March 21, 2002.

Hon. BARBARA MIKULSKI,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the Alzheimer's Association, I am writing to strongly support your legislation, the Alzheimer's Disease Research, Prevention and Care Act of 2002. I congratulate you on your continued leadership on issues important to older Americans as well as issues important to individuals with Alzheimer's disease.

Right now, 14 million Americans—most of them babyboomers—are living with a death sentence of Alzheimer's disease. For most of them, the process that will destroy their brain cells has already started. We have to act now, or it will be too late to save them. Your legislation will support ongoing efforts at the National Institute on Aging to find a way to prevent and cure this disease. We are particularly pleased that your bill places an emphasis on promising areas of research, including the connection between Alzheimer's

and vascular disease and the development of new diagnostic technologies.

Your legislation will also reauthorize a highly successful Alzheimer demonstration program at the Administration on Aging (AoA). These state grant projects demonstrate how existing public and private resources within states may be more effectively coordinated and utilized to enhance educational needs and service delivery systems for persons with Alzheimer's, their families and caregivers. In addition, AoA has also identified "best practices" among the projects and disseminated information on successful innovative approaches. The demonstration program has fostered collaborations between Alzheimer's Association chapters and state aging and mental health agencies, public health departments, private foundations, universities, physicians and managed care organizations, as well as more than 300 local community agencies.

On behalf of the 4 million Americans with Alzheimer's disease, I thank you for your efforts to support research and programs for these individuals and the family members who care for them. We look forward to continuing to work with you and your staff on this important legislation.

Sincerely,

STEPHEN MCCONNELL,
Interim President and CEO.

By Mr. NELSON of Florida (for himself and Mr. GRAHAM):

S. 2060 A bill to name the Department of Veterans Affairs Regional Office in St. Petersburg, Florida, after Franklin D. Miller; to the Committee on Veterans' Affairs.

Mr. NELSON of Florida. Mr. President, I am honored to introduce legislation to name the Department of Veterans Affairs, VA, Regional Office in St. Petersburg, FL, after Command Sergeant Major Franklin D. Miller, United States Army, Retired.

Frank Miller faithfully served our country as a soldier for thirty years from 1962 until his retirement in 1992. During much of that time, Frank Miller served in Army Special Forces units, including four tours in the Republic of Vietnam. Frank Miller's combat decorations include the Congressional Medal of Honor, the Silver Star, two Bronze Stars, the Air Medal, and six Purple Hearts. He received the Medal of Honor for his bravery in battle in 1971, when, despite his own severe wounds, he single-handedly overcame four enemy attacks and safely evacuated the surviving members of his patrol.

Upon Frank Miller's retirement from the Army in 1992, with the U.S. Army's highest enlisted rank of Command Sergeant Major, he continued to serve his community, country and fellow veterans as a benefits counselor for the Department of Veterans Affairs Regional Office in St. Petersburg, FL. Frank Miller remained very active in support of our veterans, the Armed Forces, and America's interest around the world. He was frequently invited to speak to groups around the country, sharing his experiences with others and serving as an example of honor, self-sacrifice, and dedication. Former Joint Chiefs of Staff, General Henry H. Shelton, who knew Frank Miller per-

sonally, has described him as, "an icon to what service in the armed forces is all about."

Sadly, in July of 2000, Frank Miller passed away in Florida. He is survived by his three children, Joshua, Melia, and Danielle, and his brother, Walter, who also is a retired Command Sergeant Major of the Army's Special Forces.

Frank Miller dedicated his life to serving our country. He cared deeply for the soldiers he led in combat, even to the very risk of his own life above and beyond the call of duty. He put his fellow veterans above all else in his efforts to keep our nation's promise to care for those who put America above self and bore the pain of battle. He was a loving father and brother, a true soldier's soldier, and a fellow American whose life impacted many people. Frank Miller's life should be remembered and appropriately commemorated. I hope to help honor his life by introducing legislation to name the Florida Veterans Affairs Regional Office in honor of Command Sergeant Major, Retired, Franklin D. Miller. 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. 2060

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

SECTION 1. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS REGIONAL OFFICE IN ST. PETERSBURG, FLORIDA.

(a) FINDINGS.—Congress makes the following findings:

(1) In recognition of conspicuous and meritorious duty in the Army, Franklin D. Miller was awarded the Medal of Honor, the Silver Star, two Bronze Stars, the Air Medal, and six Purple Hearts.

(2) Upon retiring from the Army, Franklin D. Miller worked for the Department of Veterans Affairs at the Department of Veterans Affairs Regional Office in St. Petersburg, Florida, thereby continuing to serve his country and his fellow veterans.

(3) Franklin D. Miller remained active in support of the Armed Forces and the foreign policy of the United States by making speeches, participating in the activities of civic organizations and schools, and supporting special forces units, and by being both a role model for all Americans and a true American hero.

(b) DESIGNATION OF BUILDING.—The building housing the Regional Office of the Department of Veterans Affairs in St. Petersburg, Florida, is hereby designated as the "Franklin D. Miller Department of Veterans Affairs Regional Office Building". Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Franklin D. Miller Department of Veterans Affairs Regional Office Building.

(c) MEMORIAL ACTIVITIES.—(1) The Secretary of Veterans Affairs shall, on the date of the first celebration of Memorial Day that occurs after the date of the enactment of this Act, provide for an appropriate ceremony at the building designated by subsection (b) to honor Franklin D. Miller and to commemorate the designation of the building after Franklin D. Miller.

(2) The Secretary shall provide for the permanent display of an appropriate copy of the Medal of Honor citation of Franklin D. Miller in the lobby of the building designated by subsection (b).

By Mr. BOND:

S. 2061. A bill to establish a national response to terrorism, a national urban search and rescue task force program to ensure local capability to respond to the threat and aftermath of terrorist activities and other emergencies, and for other purposes; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, I rise today to introduce the National Response to Terrorism and Consequence Management Act of 2002. This bill is designed to take a few of the very important steps necessary to put in place a national policy and plan for responding to the consequences and aftermath of acts of terrorism, including acts involving weapons of mass destruction.

The cowardly terrorist attacks on September 11 on the Pentagon, the World Trade Center and Pennsylvania is one of the saddest days in the history of our Nation. However, I can personally attest that the spirit of the American people has never been stronger or more caring. Last month, I visited ground zero, I talked with survivors as well as many of the heroic men and women who continue to rebuild from our losses in the aftermath of this terrible tragedy. I have never been more touched or more proud of our Nation's ability to stand tall, and to stand unbowed.

While the President has advanced a plan since September 11 which the Congress has begun to fund, there is still much work to be accomplished before we have in place the necessary protection and capacities to respond to both the threat of acts of terrorism and the consequences of such acts. In particular, we need a statutory structure that will enable the various agencies of both the states and the Federal Government to coordinate and build a Federal, State and local capacity to fully respond to acts of terrorism, including acts involving weapons of mass destruction.

We must do more to ensure that states and localities have the needed resources, training and equipment to respond to threats and acts of terrorism and the consequences of such acts. In response, the President is proposing to fund FEMA at an unprecedented \$3.5 billion for FY 2003 as a further downpayment to ensure that the Nation will not be caught unaware again by a cowardly act of terrorism and is fully capable of responding to both the threat and consequence of any act of terrorism.

These FEMA funds are targeted to states and localities and are intended to create a safety net of First Responders with firefighters, law enforcement officers and emergency medical personnel at its heart. Despite the response to September 11, the current capacity of our communities and our

First Responders vary widely across the United States, with even the best prepared States and localities lacking crucial resources and expertise. Many areas have little or no ability to cope or respond to the consequences and aftermath of a terrorist attack, especially ones that use weapons of mass destruction, including biological or chemical toxins or nuclear radioactive weapons.

The recommended commitment of funding in the President's Budget is only the first step. There also needs to be a comprehensive approach that identifies and meets state and local First Responder needs, both rural and urban, pursuant to federal leadership, benchmarks and guidelines.

This legislation is intended to move the Federal Government forward in developing that comprehensive approach with regard to the consequence management of acts of terrorism. The bill establishes in FEMA an office for coordinating the federal, state and local capacity to respond to the aftermath and consequences of acts of terrorism. This essentially represents a beginning statutory structure for the existing Office of National Preparedness within FEMA as the responsibilities in this legislation are consistent with many of the actions of that office currently. This bill also provides FEMA with the authority to make grants of technical assistance to states to develop the capacity and coordination of resources to respond to acts of terrorism. In addition, the bill authorizes \$100 million for states to operate fire and safety programs as a step to further build the capacity of fire departments to respond to local emergencies as well as the often larger problems posed by acts of terrorism. America's firefighters are, with the police and emergency medical technicians, the backbone of our Nation and the first line of defense in responding to the consequences of acts of terrorism.

The legislation also formally recognizes and funds the urban search and rescue task force response system at \$160 million in fiscal year 2002. The Nation currently is served by 28 urban search and rescue task forces which proved to be a key resource in our Nation's ability to quickly respond to the tragedy of September 11. In addition, Missouri is the proud home of one of these urban search and rescue task forces, Missouri Task Force 1. Missouri Task Force 1 made a tremendous difference in helping the victims of the horrific tragedy at the World Trade Center as well as assisting to minimize the aftermath of this tragedy. These task forces are underfunded and under-equipped, but, nonetheless, are committed to be the front-line soldiers for our local governments in responding to the worst consequences of terrorism at the local level. I believe we have an obligation to realize fully the capacity of these 28 search and rescue task forces to meet First Responder events and this legislation authorizes the needed funding.

Finally, the bill removes the risk of litigation that currently discourages the donation of fire equipment to volunteer fire departments. As we have discovered in the last several years, volunteer fire departments are underfunded, leaving the firefighters with the desire and will to assist their communities to fight fires and respond to local emergencies but without the necessary equipment or training that is so critical to the success of their profession. We have started providing needed funding for these departments through the Fire Act Grant program at FEMA. However, more needs to be done and this legislation is intended to facilitate the donation of used, but useful, equipment to these volunteer fire departments.

I urge my colleagues to support this legislation.

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

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

NATIONAL RESPONSE TO TERRORISM AND CONSEQUENCE MANAGEMENT ACT OF 2002—SUMMARY OF LEGISLATION

TITLE I. CAPACITY BUILDING FOR URBAN SEARCH AND RESCUE TASK FORCES

This title may be cited as the "National Urban Search and Rescue Task Force Assistance Act of 2002."

Sec. 102. Statement of Findings and Purpose. The purpose of this act is to provide the needed funds, equipment and training to ensure that all urban search and rescue task forces have the full capability to respond to all emergency search and rescue needs arising from any disaster, including acts of terrorism involving a weapon of mass destruction.

Sec. 104. Assistance. Requires no less than \$1.5 million annually for the operational costs of each urban search and rescue task forces. Authorizes additional grants for (1) operational costs in excess of the \$1.5 million; (2) the cost of equipment; (3) the cost of equipment needed to allow a task force to operate in an environment contaminated by weapons of mass of destruction, including chemical, biological, and nuclear/radioactive contaminants; (4) the cost of training; (5) the cost of transportation; (6) the cost of task force expansion; (7) the cost of Incident Support Teams, including the cost to conduct appropriate task force readiness evaluations; and (8) the cost of making task forces capable of responding to international disasters, including acts of terrorism.

Requires FEMA to prioritize all funding to ensure that all urban search and rescue task forces have the capacity, including all needed equipment and training, to deploy two separate task forces simultaneously from each sponsoring agency.

Sec. 106. Technical Assistance for Coordination. Allows FEMA to award no more than four percent of the funds for technical assistance to allow urban search and rescue task forces to coordinate with other agencies and organizations, including career and volunteer fire departments, to meet state and local disasters, including acts of terrorism involving the use of a weapon of mass destruction including chemical, biological, and nuclear/radioactive weapons.

Sec. 107. Additional Task Forces. Allows FEMA to establish additional urban search and rescue teams pursuant to a finding of

need. No additional urban search and rescue teams may be designated or funded until the first 28 teams are fully funded and able to deploy simultaneously two task forces from each sponsoring agency with all necessary equipment, training and transportation.

Sec. 108. Performance of Services. Incorporates section 306 of the Stafford Act to allow FEMA to incur any additional obligations as determined necessary by FEMA, such as the cost of temporary employment, workmen compensation, insurance, and other compensation for work-related injuries consistent with memorandums of understanding agreed to between FEMA and the task forces.

Sec. 109. Authorization of Appropriations. Authorizes \$160 million to be appropriated for fiscal year 2002.

TITLE II. PROMOTE THE CONTRIBUTION OF EQUIPMENT TO VOLUNTEER FIREFIGHTING DEPARTMENTS

This title may be cited as the "Good Samaritan Volunteer Firefighter Assistance Act of 2002."

Sec. 202. Removal of Civil Liability Barriers that Discourage the Donation of Fire Equipment to Volunteer Fire Companies. Removes liability for civil damages under any state or federal law for any entity or person who donates equipment to a volunteer fire department, except where (1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or (2) the person is the manufacturer of the fire control or fire rescue equipment. Requires the State to designate its State Fire Marshall or equivalent person to certify the safety and usefulness of the fire control or fire rescue equipment that is being donated.

TITLE III. ESTABLISHMENT OF COORDINATION OFFICE WITHIN FEMA

Sec. 301. Establishment of Coordination Office for Responding to Acts of Terrorism. Requires FEMA to establish or designate an office within FEMA to coordinate the response of State and local agencies, including fire departments, hospitals, and emergency medical facilities, to acts of terrorism, including the capacity to provide assistance in an environment with chemical, biological, or nuclear/radiological contamination.

Authorizes FEMA to make grants to provide technical assistance and coordinating funding to States to ensure that localities, fire departments, hospitals and other appropriate entities have the capacity to respond to the consequences of possible acts of terrorism, including the capacity to provide assistance in an environment with chemical, biological, or nuclear/radiological contamination.

Authorizes FEMA to award grants to states to operate new and existing state fire and safety training programs for firefighting personnel.

Requires FEMA to establish a task force among Federal agencies for the coordination of Federal, State and local resources to develop a national response plan for responding to acts of terrorism, including the capacity to provide assistance in an environment with chemical, biological, or nuclear/radiological contamination.

Limits administrative costs for states to 5 percent.

Authorizes FEMA to use such sums as necessary from the Disaster Relief Fund to meet the requirements of this title, including no less than \$100 million for grants to support State fire and safety training programs. Requires at least 20 percent of the funds awarded State fire and safety training programs to be used to assist fire departments with an annual budget of no more than \$25,000.

By Mr. MCCAIN (for himself, Mr. SMITH of New Hampshire, Mr. JEFFORDS, and Mr. INOUE):

S. 2064. A bill to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes: to the Committee on Environment and Public Works.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to continue Federal support for the U.S. Institute for Environmental Conflict Resolution. I am pleased to be joined by my colleagues, Senators BOB SMITH, JIM JEFFORDS, and DANIEL K. INOUE.

The Congress enacted legislation to establish the U.S. Institute for Environmental Conflict Resolution in 1998, with the purpose of offering an alternative to litigation for parties in dispute over environmental conflicts. As we know, many environmental conflicts often result in lengthy and costly court proceedings and may take years to resolve. In cases involving Federal Government agencies, the costs for court proceeding are usually paid for by taxpayers. While litigation is still a recourse to resolve disputes, the Congress recognized the need for alternatives, such as mediation and facilitated collaboration, to address the rising number of environmental conflicts that have clogged Federal courts, executive agencies, and the Congress.

The Institute was placed at the Morris K. Udall Foundation in recognition of former Representative Morris K. Udall from Arizona and his exceptional environmental record, as well as his unusual ability to build a consensus among fractious and even hostile interests. The Institute was established as an experiment with the idea that hidden within fractured environmental debates lay the seeds for many agreements, an approach applied by Mo Udall with unsurpassed ability.

The success of the Institute is far greater than we could have imagined. The Institute began operations in 1999 and has already provided assistance to parties in more than 100 environmental conflicts across 30 States.

Agencies from the Environmental Protection Agency, the Departments of Interior and Agriculture, the U.S. Navy, the Army Corps of Engineers, the Federal Highway Administration, the Federal Energy Regulatory Commission, and others have all called upon the Institute for assistance. Even the Federal courts are referring cases to the Institute for mediation, including such high profile cases as the management of endangered salmon throughout the Columbia River Basin in the Northwest.

The Institute also assisted in facilitating interagency teamwork for the Everglades Task Force which oversees the South Everglades Restoration Project. The U.S. Forest Service requested assistance to bring ranchers and environmental advocates in the southwest to work on grazing and environmental compliance issues. Even Members of Congress have sought the

Institute's assistance to review implementation of the Nation's fundamental environmental law, the National Environmental Policy Act, to assess how it can be improved using collaborative processes.

Currently, the Institute is involved in more than 20 cases and many more are pending consideration. The Institute accomplishes its work by maintaining a national roster of 180 environmental mediators and facilitators located in 39 States. We believe that mediators should be involved in the geographic area of the dispute whenever possible and that system is working.

The demand on the Institute's assistance has been much greater than anticipated. At the time the Institute was created, we did not anticipate the magnitude of the role it would serve to the Federal Government. The Institute has served as a mediator between agencies and as an advisor to agency dispute resolution efforts involving overlapping or competing jurisdictions and mandates, developing long-term solutions, training personnel in consensus-building efforts, and designing internal systems for preventing or resolving disputes.

Unfortunately, experience has also taught us that most Federal agencies are limited from participating because of inadequate funds to pay for mediation services. This legislation will authorize a participation fund to be used to support meaningful participation of parties to Federal environmental disputes. The participation fund will provide matching funds to stakeholders who cannot otherwise afford mediation fees or costs of providing technical assistance.

In addition to creating this new participation fund, this legislation simply extends the authorization for the Institute for an additional 5 years with a modest increase in its operation budget. The proposed increase is in response to the overwhelming demand on the Institute's services, an investment that will ultimately benefit taxpayers by preventing costly litigation.

On February 11, 2002, the Arizona Daily Star included an editorial that recognizes the benefits of this Institute to resolving environmental conflicts faced by various parties, including Federal and non-Federal parties, and recommends continuing support for the Institute. I ask unanimous consent that a copy of this editorial be printed in the RECORD.

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

[From the Arizona Daily Star, Feb. 11, 2002]

AN EFFECTIVE AGENCY

One of the little-known gems in Tucson is one of the few federal agencies, if not the only one, with headquarters outside of the Washington, D.C. area—the Institute for Environmental conflict Resolution.

With a name like that, the institute clearly is not a tourist attraction. What makes it a gem is that it is proving to be remarkably successful at finding solutions to environmental conflicts that otherwise likely would end in lawsuits.

The institute is an arm of the Morris K. Duall Foundation. It was proposed by Senator John McCain and created by Congress in 1998. Very few people then realized what McCain apparently did—there was a great need for such an agency.

Terrence Bracy, chair of the Board of Trustees for the foundation, says the institute expected to handle perhaps 20 to 25 cases per year. The institute handled 60 last year and expects to handle even more this year.

Says Bracy: "We didn't know how big the market was. We didn't know whether it would work." But work it has.

Now, the institute's original funding will expire their McCain is expected to introduce a bill to reauthorizing the funding probably at the current level.

It's a good idea, and it would help if Arizona's other congressional delegates, especially Jim Kolbe and Ed Paster, who both represent Southern Arizona, and Senator John Kyl, joined McCain in seeking the funding.

Bracy knows that the federal government has an immediate stake in mediation. That is because many of the cases being mediated involved governmental agencies, either as agencies potentially being used or as agencies suing others.

A Unique aspect of the institute's work is that because it is a federal agency, it has status and credibility with other government agencies and with the courts. That makes its medication efforts even more effective.

The institute has had contracts with the Navy, Fish and Wildlife, the Bureau of Reclamation, the National Parks Service, the Department of Transportation, the Environmental Protection Agency and others, according to Bracy.

"What happens over time," Bracy says, "is we see this thing this tremendous need." He is right.

Tucsonans should recognize what a gem they have in their midst. And Arizona's congressional delegation should get firmly behind McCain's efforts to reauthorize the funding for the Institute for Environmental Conflict Resolution.

It is a government program that even the most anti-government conservatives should love.

Mr. MCCAIN. Nothing is more indicative of the support for the Institute than the cosponsorship of my two colleagues, Senator SMITH and Senator JEFFORDS, the chairman and ranking member of the Senate Environment and Public Works Committee, which has jurisdiction over most environmental matters before the Congress. I thank Senator SMITH and Senator JEFFORDS for their critical support, and I look forward to working with them to enact this important, bipartisan legislation.

This is a matter of some urgency as the existing authorization will expire in this fiscal year. I look forward to working with the cosponsors of this legislation and the rest of my colleagues to move this bill forward expeditiously to ensure continuing support for the valuable services of the U.S. Institute for Environmental Conflict Resolution to our Nation.

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. 2064

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 "Environmental Policy and Conflict Resolution Advancement Act of 2002".

SEC. 2. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5609) is amended by striking subsection (b) and inserting the following:

"(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 10 \$4,000,000 for each of fiscal years 2004 through 2008, of which—

"(1) \$3,000,000 shall be used to pay operations costs (including not more than \$1,000 for official reception and representation expenses); and

"(2) \$1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.".

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

S. 2065. A bill to provide for the implementation of air quality programs developed pursuant to an Intergovernmental Agreement between the Southern Ute Indian Tribes and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2002.

As my colleagues know, successful environmental laws recognize that local implementation is almost always better than a "one size fits all" program run from Washington, DC. For example, the Federal Clean Air Act authorizes States and Indian tribes to become responsible for establishing implementation plans, designating air quality standards, and implementing many of the regulatory programs needed to maintain or improve air quality.

With respect to the Southern Ute Indian Reservation in my State of Colorado, however, there is some question about whether the Environmental Protection Agency, EPA, can delegate Clean Air Act jurisdiction to the Southern Ute Tribe in the same manner that it would delegate authority to any other Indian tribe.

In 1984 Congress ratified a jurisdiction and boundary agreement between the Southern Ute Indian Tribe and the State of Colorado. Approving this agreement spared both sides the exorbitant costs of going to court to fight over the jurisdictional status of each square inch on the Reservation.

In addition, the 1994 arrangement allows the tribe and the State to work

out any questions about jurisdiction within their agreed-upon framework. With respect to Federal officials dealing with the tribe and the State, however, this arrangement could create some uncertainty. Because it could be argued that it prevents the tribe from exercising authority that may be delegated to any Indian tribe under the Clean Air Act.

Instead of placing the Environmental Protection Agency in the middle of a controversy about whether it is authorized to delegate Clean Air Act programs within the Southern Ute Indian Reservation, the tribe and the State signed a historic "Intergovernmental Agreement" to resolve any controversy between the Southern Ute Indian Tribe and the State of Colorado.

In this way, the State and the tribe have once again agreed that it is better for them to control their own destiny by reaching an accord they can both live with rather than putting their fate in the hands of bureaucrats and judges. I applaud the proactive spirit which led the tribe and the State to resolve a potential controversy before a problem or conflict even arose.

The program established by the agreement reflects the unique issues and context that brought the tribe and the State to the negotiating table. First, consistent with Congress' mandate in the Clean Air Act, the Tribe will be the entity responsible for administering Clean Air Act programs within the reservation boundaries. The tribal program administrators have complete access to the State's technical resources and personnel. Second, an equal number of tribal and State representatives will sit on the Commission established by the agreement.

The Commission is authorized to hear and decide any appealable decisions. The Commission will also set the pace for tribal applications for delegations of authority. Finally, the agreement seeks to make the Federal courts available to hear any challenges to decisions by the Commission.

I am aware of the number of complex issues raised by this historic agreement, and efforts are already underway to address and resolve some of these issues. I believe it is the right time to introduce a bill to allow the appropriate committee to begin to formally consider this proposal. I know the parties will continue to direct their efforts at bringing this important matter to a successful conclusion.

In closing, let me again commend the efforts of both the tribe and the State in negotiating and signing this historic agreement. I would ask unanimous consent that a letter from Colorado Governor Bill Owens be printed in the RECORD. Finally, I am pleased that Senator WAYNE ALLARD joins with me in the views expressed in this statement and in cosponsoring this bill.

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

STATE OF COLORADO,
Denver, CO, May 22, 2000.

Re: Intergovernmental Agreement between the State of Colorado and the Southern Ute Indian Tribe Regarding Air Quality regulation.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: On December 13, 1999 I signed an historic agreement between the State of Colorado and the Southern Ute Indian Tribe in which the State and the Tribe agreed to establish a single, cooperative air quality authority for all lands within the Southern Ute Reservation. This cooperative arrangement, negotiated by Attorney General Salazar, my office and the Colorado Department of Public Health and Environment ("CDPHE"), is the first of its kind in the United States between a state and a tribe to regulate air quality. Because the arrangement is unique, statutory authority or clarification is needed at both the State and federal levels to accommodate the agreement. The General Assembly sent to me a bill to accomplish the changes necessary at the State level that I signed into law on March 15, 2000. I am writing today to ask you to sponsor legislation achieving a clarification to existing federal law assuring that the agreement in its contemplated framework can move forward. I have attached a draft of the legislation we believe is needed to clarify that the agreement can work as well as a copy of the intergovernmental agreement signed in December.

BACKGROUND

As you know, the Southern Ute Indian Tribe's Reservation consists of approximately 681,000 acres, located mainly in La Plata County. The Reservation is a checkerboard of land ownership. About 308,000 surface acres are held in trust by the United States for the benefit of the Tribe ("trust lands.") The remaining 378,000 surface acres are owned in fee by non-Indians or individual Tribal members ("fee lands"), or consist of national forest land. In 1984, Congress enacted Public Law 98-290, which confirmed the exterior boundaries of the Reservation. P.L. 98-290 also clarified that the Tribe has jurisdiction over the trust lands and Indians anywhere in the Reservation, and the State has jurisdiction over non-Indians on the fee lands.

Oil and natural gas production takes place throughout the Reservation. These facilities are stationary air pollution sources. Historically CDPHE's Air Pollution Control Division has issued permits to non-Indian owned sources located on fee lands. Recently, the Tribe petitioned EPA for the right to issue all permits within the exterior boundaries of the Reservation including the facilities historically regulated by the State of Colorado. In 1998, the EPA issued regulations implementing provisions of the Clean Air Act allowing Indian tribes to be treated in the same manner as States to administer certain air quality programs. In July 1998, the Southern Ute Tribe applied to the EPA for treatment as a state for all lands within the Reservation. On the basis of PL 98-290, the State objected, arguing that it had jurisdiction over the non-Indian sources on the fee lands.

To avoid a potentially long and costly fight in the federal courts about which governmental entity has jurisdiction over the fee lands, the Tribe and the State have now agreed to establish a single, cooperative air quality authority for all lands within the Reservation. On December 13, 1999, the Tribe and the State entered into an Intergovernmental Agreement (copy attached) which provides that a joint Tribal/State Commis-

sion will establish air quality standards. The Tribe will receive a delegation of authority from EPA to administer the air quality programs, but the delegation is contingent upon and shall last only so long as the Agreement and Commission are in place.

TRIBAL AND STATE LEGISLATION

The Agreement provided for legislation by both the Tribe and the State approving the Agreement and enacting substantive law necessary to carry out the Agreement's provisions. On January 18, 2000, the Tribe adopted its legislation. On March 15, 2000, I signed HB 1324, which adopted and codified the Agreement and HB 1325, which established the State's authority to establish the Commission and otherwise implement the Agreement.

FEDERAL LEGISLATION

The Agreement envisions a delegation by the EPA to the Tribe to administer Clean Air Act programs, contingent upon the existence of the Joint State/Tribal Commission. This is a unique arrangement and is not clearly specified within the Clean Air Act. Parties have argued to me that clarifying legislation by Congress is necessary to resolve any uncertainty about the EPA's power to delegate authority to run an air pollution program to the Tribe and for the Commission to act under such a delegation. The Commission also will set the standards and rules of the air quality program that the Tribe will administer. The Commission will serve as the administrative appellate review body for enforcement and other administrative actions. The Agreement provides that the Commission's final review is final agency action, and further judicial review would be in the federal courts. The existence of such federal jurisdiction should also be clarified by Congress.

Enclosed is a draft of the proposed federal legislation and a legislative history for your review. These draft documents would accomplish the limited but necessary changes to make the Agreement fully operational. The bill is set up to add a section to P.L. 98-290 to narrow the application of the revisions only to the Southern Ute Indian Tribe and the State of Colorado, so that other states or tribes would not be affected.

NEXT STEPS

The full operation of the Agreement is conditioned upon passage of federal legislation no later than December 13, 2001. I recognize that this may be difficult but from the State's perspective the sooner the Agreement could be operational the better since EPA will be regulating the affected entities until the Joint Commission and Tribe take over. We would like to be helpful and I offer a meeting between you and your staff and representatives of the Governor's Office, the Colorado Department of Public Health and Environment and the Colorado Attorney General's Office at your earliest convenience discuss this issue.

Thank you for taking the time to consider this request. Please feel free to contact Britt Weygandt in my office for any assistance you may need. Her extension is (303) 866-6392.

Sincerely,

BILL OWENS,
Governor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 231—RELATIVE TO THE DEATH OF THE HONORABLE HERMAN E. TALMADGE, FORMERLY A SENATOR FROM THE STATE OF GEORGIA

Mr. DASCHLE (for himself, Mr. LOTT, Mr. CLELAND, and Mr. MILLER) submitted the following resolution; which was considered and agreed to:

S. RES. 231

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Herman E. Talmadge, formerly a Senator from the State of Georgia.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased Senator.

SENATE RESOLUTION 230—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD REJECT REDUCTIONS IN GUARANTEED SOCIAL SECURITY BENEFITS PROPOSED BY THE PRESIDENT'S COMMISSION TO STRENGTHEN SOCIAL SECURITY

Mr. CORZINE (for himself and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 230

Whereas Social Security was designed as a social insurance program to ensure that Americans who work hard and contribute to our Nation can live in dignity in their old age;

Whereas for ⅔ of seniors, Social Security is their primary source of income, and for ⅓, Social Security is their only source of income;

Whereas in fiscal year 2001, the annual level of Social Security benefits for retired workers averaged approximately \$10,000;

Whereas \$10,000 per year is insufficient to maintain a decent standard of living in most parts of the country, especially for seniors with relatively high health care costs;

Whereas in 2001, President George W. Bush's Commission to Strengthen Social Security (referred to in this resolution as the "Commission") produced 3 proposals for Social Security reform that included individual accounts and significant reductions in the level of guaranteed benefits;

Whereas the proposed changes to guaranteed benefits could reduce benefits to future retirees by 45 percent;

Whereas the Commission proposals also suggested reducing benefits for early retirees, forcing many Americans to delay retirement; and

Whereas the Commission justified proposed cuts in guaranteed benefits by pointing to long-term projected shortfalls in the Social Security Trust Fund, however, the Commission's proposals to divert payroll tax revenues from the Trust Fund into private accounts would substantially accelerate the