United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *107th* CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, TUESDAY, MAY 22, 2001 *No. 71*

Senate

The Senate met at 9:33 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this planet within this universe among universes, by Your plan and power the Earth has revolved around the Sun, and You have blessed us with a new day. Today will be like no other day past or to come. We praise You for the privilege of being alive. Help us to trust You with all of the challenges and opportunities ahead of us today. We commit them to You. Go before us to prepare the way. We want to be so in tune with You that what we do and say will accomplish Your will.

May we sense Your presence and make this day one of constant inner conversation with You. As the Senators practice Your presence, help them to trust You to guide their thinking. Give them a special measure of wisdom, insight, and discernment to tackle the problems that arise today. May this be a productive day as they hear and accept the psalmist's prescription for peace: *Cast your burden on the Lord, and He shall sustain you.*—Psalm 55:22. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 22, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. LINCOLN D. CHAFEE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

SCHEDULE

Mr. HELMS. Mr. President, I announce on behalf of the majority leader, today the Senate will resume voting on final amendments to the reconciliation bill. Consecutive votes will occur throughout the morning and will include final passage of the bill. It is hoped the Senate will complete action as soon as possible in order to resume consideration of the education bill. There are amendments pending to the education bill, and others will be offered during today's session. There will be many votes throughout the day, and Senators are encouraged to stay in the Senate Chamber during final votes on this tax bill.

On behalf of the majority leader, I thank my colleagues for their cooperation.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 1836, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

Pending:

Collins/Warner amendment No. 675, to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials.

Feingold/Kohl amendment No. 724, to eliminate the Medicaid death tax.

Feingold amendment No. 725, to increase the income limits applicable to the 10 percent rate bracket for individual income taxes.

Feingold motion to commit the bill to the Committee on Finance with instructions to report back within three days.

Feingold amendment No. 726, to preserve the estate tax for estates of more than $100 million in size and increase the income limits applicable to the 10 percent rate bracket for individual income taxes.

Reid (for Harkin) amendment No. 727, to delay the effective date of the reductions in the tax rate relating to the highest rate bracket until the enactment of legislation that ensures the long-term solvency of the Social Security and Medicare trust funds.

Lincoln amendment No. 711, to eliminate expenditures for tuition, fees, and room and board as qualified elementary and secondary education expenses for distributions made from education individual retirement accounts.

Kerry amendment No. 721, to exempt individual taxpayers with adjusted gross incomes below $100,000 from the alternative minimum tax and modify the reduction in the top marginal rate.

Lieberman/Daschle amendment No. 693, to provide immediate tax refund checks to help boost the economy and help families pay for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

higher gas prices and energy bills and to modify the reduction in the maximum marginal rate of tax.

Gramm amendment No. 736, to ensure debt reduction by providing for a mid-course review process.

Corzine motion to commit the bill to the Committee on Finance with instructions to report back within 3 days.

Baucus (for Conrad) amendment No. 743, to increase the standard deduction and to strike the final two reductions in the 36 and 39.6 percent rate brackets.

Baucus (for Conrad) amendment No. 744, to increase the standard deduction and to reduce the final reduction in the 39.6 percent rate bracket to 1 percentage point.

Reid (for Carper) amendment No. 747, to provide responsible tax relief for all income taxpayers, by way of a $1,200,000,000,000 tax cut, and to make available an additional $150,000,000,000 for critical investments in education, particularly for meeting the Federal Government's commitments under IDEA, Head Start, and the bipartisan education reform and ESEA reauthorization bill.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

AMENDMENT NO. 724

Mr. FEINGOLD. Mr. President, my amendment would repeal the Medicaid Estate Recovery Program, the real ''death tax'' for many elderly Americans.

When nursing home bills force a person onto Medicaid, the Medicaid Estate Recovery Program allows the government to put a lien on the family house and, upon the death of the spouse, recover the amount that Medicaid spent on nursing care.

This Medicaid death tax does not affect the wealthy. In order to qualify for Medicaid, a person has to pay down assets, and the spouse can only keep so much under the spousal impoverishment provisions. But the Medicaid death tax effectively imposes a 100 percent estate tax on these vulnerable Americans.

My amendment would repeal this Medicaid death tax. It offsets the cost by shaving back ever so slightly the reductions in the estate tax rates for the very largest estates.

I urge colleagues to support the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the amendment by my good friend from Wisconsin. Medicaid spenddown is a large problem. All who have studied this know it needs to be dealt with. This amendment was offered in committee and defeated in committee. It is not germane to this bill. This is a tax bill, not a Medicaid bill. I urge Senators not to support it.

The pending amendment is not germane. Therefore, I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. FEINGOLD. Pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of the act for consideration of my amendment and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—41

Akaka	Durbin	Lieberman
Biden	Edwards	McCain
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reed
Carnahan	Inouye	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kerry	Schumer
Daschle	Kohl	Stabenow
Dayton	Landrieu	Torricelli
Dodd	Leahy	Wellstone
Dorgan	Levin	

NAYS—58

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Graham	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Campbell	Helms	Snowe
Carper	Hutchinson	Specter
Chafee	Hutchison	Thomas
Cleland	Inhofe	Thompson
Cochran	Jeffords	Thurmond
Collins	Kyl	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	Wyden
DeWine	Lugar	
Domenici	McConnell	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Wisconsin.

AMENDMENT NO. 725

Mr. FEINGOLD. Mr. President, this amendment is about fairness.

The bill before us is tilted heavily toward high-income taxpayers. The highest-income 1 percent of taxpayers would receive 35 percent of the benefits, while the majority of taxpayers in the bottom three-fifths of the population would get only a little more than 15 percent of the bill's benefits.

My amendment would strike the cut in the top tax rate, and use the savings to increase the amount of income covered by the 10 percent income tax bracket. It would thus reduce the already large benefits to that less than 1 percent of the population with incomes of more than $297,000, and use the savings to give tax cuts to all income taxpayers.

This amendment would restore a modicum of fairness to this bill, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Feingold amendment goes directly against one of the key pillars of this bipartisan tax bill now before the Senate.

This amendment rejects the principle that we should have rate reductions in all marginal rates and do it at all levels. I strongly urge my colleagues to vote against the amendment that goes against the bipartisan agreement.

In addition, we have higher marginal tax rates for businesses of the self-employed at 39 percent then for corporations at 35 percent. We believe there ought to be a closer relationship between the two.

Lastly, I plead with my colleagues, how many times do we have to vote on the same amendment—time after time after time—just offered in a little different way but by different Members? We have worked hard to put together a bipartisan budget agreement, and we also wanted to bring some civility to the process. What we did last night detracts from that.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 725.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 725 by the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—46

Akaka	Dayton	Kohl
Bayh	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Lieberman
Boxer	Edwards	Lincoln
Byrd	Feingold	McCain
Cantwell	Feinstein	Mikulski
Carnahan	Graham	Murray
Chafee	Harkin	Nelson (FL)
Cleland	Hollings	Reed
Clinton	Inouye	Reid
Conrad	Johnson	Rockefeller
Corzine	Kennedy	
Daschle	Kerry	

Sarbanes	Stabenow	Wellstone
Schumer	Torricelli	Wyden

NAYS—53

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 718) was rejected.

MOTION TO RECOMMIT

The PRESIDING OFFICER. The next vote is on Feingold amendment No. 726.

The Senator from Wisconsin.

Mr. GRASSLEY. What is the number of the amendment?

The PRESIDING OFFICER. The amendment is No. 726, Feingold amendment No. 726.

The Senate will come to order. Senators will take their conversations off the floor to the Cloakroom.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the estate tax provisions are a major source of the unfairness in this bill. But even within the estate tax provisions themselves, this bill tilts to the very wealthiest.

The bill would increase the unified credit exemption up to $4 million a person, or $8 million a couple. This change alone will exempt all but the very wealthiest.

But the bill would also reduce the rate of taxation that the few extremely wealthy families who still have to pay the estate tax would pay. It thus focuses tax cuts on the very pinnacle of wealth.

My motion would spread the estate tax relief in this bill more broadly. My motion would recommit the bill to committee to strike all the estate tax rate reductions in the bill and use the savings to expand the amounts of the estate tax unified credit exemption amounts.

Thus under my amendment, more relatively smaller estates would be exempted from taxation altogether. This would allow the unified credit to increase to $5 million, or $10 million a couple.

I urge colleagues to support the amendment.

Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will clarify. This is a motion to recommit, not a vote on an amendment.

Mr. GRASSLEY. I think we need a clarification. The Chair told me it was amendment No. 726. I want to know what we are voting on.

The PRESIDING OFFICER. It is a motion to recommit.

Mr. GRASSLEY. Is it still his amendment No. 726?

The PRESIDING OFFICER. No. It is a motion to recommit the bill to the Finance Committee.

Mr. FEINGOLD. Mr. President, No. 726 is next.

The PRESIDING OFFICER. This is a motion to recommit the bill to the Finance Committee.

Mr. GRASSLEY. Mr. President, I would like to have the motion read.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Wisconsin, Mr. FEINGOLD, moves to commit the bill to the Committee on Finance with instructions that the committee report back within 3 days changes that would strike all the estate tax rate reductions in the bill and use the savings to expand the amounts of the estate tax unified credit exemption amounts.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, our bipartisan bill before us uses the entire $145 billion to fund the increases in the unified credit. We have $1 million, $2 million, $3 million, all by the year 2005, and that is where Senator FEINGOLD's money went. We still found more for a $4 million credit by the year 2009.

This action undoes a very carefully crafted bipartisan effort by Senator LINCOLN, Senator KYL, Senator BAUCUS, and myself. I see this as one other effort—amendment after amendment—trying to destroy particularly the most easily crafted part of this bill, one mostly agreed to, by Senator LINCOLN and Senator KYL. I hope we can get away from these efforts to destroy this bipartisan compromise.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 69, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—30

Akaka	Dayton	Kohl
Biden	Dodd	Levin
Boxer	Dorgan	Lieberman
Byrd	Durbin	Murray
Cantwell	Feingold	Reed
Carnahan	Graham	Reid
Clinton	Harkin	Rockefeller
Conrad	Hollings	Sarbanes
Corzine	Inouye	Stabenow
Daschle	Kennedy	Wellstone

NAYS—69

Allard	Enzi	McConnell
Allen	Feinstein	Mikulski
Baucus	Fitzgerald	Miller
Bayh	Frist	Murkowski
Bennett	Gramm	Nelson (FL)
Bingaman	Grassley	Nelson (NE)
Bond	Gregg	Nickles
Breaux	Hagel	Roberts
Brownback	Hatch	Santorum
Bunning	Helms	Schumer
Burns	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Cochran	Kerry	Specter
Collins	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Leahy	Thurmond
DeWine	Lincoln	Torricelli
Domenici	Lott	Voinovich
Edwards	Lugar	Warner
Ensign	McCain	Wyden

NOT VOTING—1

Stevens

The motion was rejected.

AMENDMENT NO. 726

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, my next amendment eliminates the estate tax repeal for estates larger than $100 million and uses the savings to give tax cuts to all income-tax payers. Last year, the Treasury Department said for 1998, 35 estates amounted to more than $100 million. Thirty-one of those estates paid $1.4 billion in taxes or 7 percent of all estate taxes. Repealing the estate tax for those estates would have given those estates a tax cut averaging $45 million each.

My amendment by contrast would preserve the estate tax for these very wealthy estates and apply the savings to an across-the- board tax cut for all taxpayers by expanding the amount of income subject to the 10-percent tax bracket. Too often the choices we have to weigh here are heartbreakingly difficult. This is not one of those cases.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, all who have been voting to change the estate tax provisions, listen to what is wrong with his amendment. Every one of you who wants to tax people in the estates that we believe should not be taxed will vote against his amendment. His amendment seems too good to be true. It is too good to be true. It strikes repeal and adds a $100 million unified credit. That ought to be enticing to anybody, even anybody who is a Republican.

But remember, in our bill, when the estate tax is done away with, the capital gains tax is applied to gains above a very low extended-up basis for everybody. This bill before the Senate allows an extended-up basis to $100 million. There would be no capital gains applied to any of the growth. So you are ignoring a principle that we want all money to be taxed at least once, by capital gains or by income tax.

I ask that Members not let $100 million of growth in an estate not be allowed to be taxed at least once.

The PRESIDING OFFICER (Mr. ENZI). All time has expired.

The question is on agreeing to the Feingold amendment No. 726.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—48

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	McCain
Boxer	Feingold	Mikulski
Byrd	Feinstein	Murray
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Hutchison	Sarbanes
Clinton	Inouye	Schumer
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Corzine	Kerry	Stabenow
Daschle	Kohl	Torricelli
Dayton	Landrieu	Wellstone

NAYS—51

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Gregg	Roberts
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Cleland	Inhofe	Smith (OR)
Cochran	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	Wyden

NOT VOTING—1

Stevens

The amendment (No. 726) was rejected.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader is recognized.

CELEBRATING WITH SENATOR ROBERT C. BYRD

Mr. DASCHLE. Mr. President, it was approximately 42 years ago that our colleague, the senior Senator from West Virginia, cast his first vote. It was in January of 1959. He has cast votes consistently, virtually without missing a vote, for now more than four decades. ROBERT C. BYRD just cast his 16,000th vote. I congratulate our senior colleague from West Virginia.

(Applause, Senators rising.)

Mr. President, I also note it is a week from today that he will be celebrating his 64th wedding anniversary as well, so there is much to celebrate. But we congratulate Senator BYRD, we congratulate Senator and Mrs. Byrd on their anniversary a week from today, and we thank him for his great service to America.

I yield the floor.

AMENDMENT NO. 727

The PRESIDING OFFICER. The question is on agreeing to amendment No. 727 offered on behalf of the Senator from Iowa, Mr. HARKIN.

Mr. GRASSLEY. Mr. President, Senator HARKIN asked me if we could pass over his amendment temporarily and go on to another amendment.

AMENDMENT NO. 711

The PRESIDING OFFICER. The question is on agreeing to amendment No. 711 offered by Senator LINCOLN.

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, if we are truly serious about not leaving any child behind, this amendment is essential. The amendment I am offering strikes the provision within the education savings accounts language that covers only the tuition, fees, room and board expenses for K–12 by still permitting the ESA tax savings for other educational-related expenses for all students including K–12. This amendment will create a level playing field by providing the same tax benefits to all parents regardless of where they send their children to school.

Under my amendment, all parents will be able to take advantage of ESA accounts for K–12-related expenses to buy computers, uniforms, other items—afterschool programs for their children—to use to supplement or further their education. It treats all parents equally.

Using ESA accounts for private school tuition is simply vouchers by another name. While I strongly believe in a parent's right to choose a public school education or private school education for their children, I am concerned that providing a tax incentive to pay private school tuition will divert the critical resources needed to improve our public schools.

The PRESIDING OFFICER. The Senator from Arkansas, Mr. HUTCHINSON.

Mr. HUTCHINSON. Mr. President, the amendment by my colleague from Arkansas tears the very heart out of the Coverdell ESA that previously passed this Chamber by large bipartisan majorities. This is by no means vouchers, by any stretch of the imagination. These are education IRAs, and the rights of parents should be preserved to have the maximum flexibility in their use. In fact, studies indicate that 75 percent of the parents who have used these ESAs have their children in public schools.

It harms the bipartisan nature of the chairman's mark, the agreement that was reached on education savings accounts, and to prohibit the use of ESA moneys for tuition and fees or room and board as proposed by the Senator from Arkansas would mean that the ESAs could only finance tutoring, enrichment courses, and postsecondary education costs. It would, in Arkansas, eliminate 26,645 children and their parents from participation in the use of these education savings accounts.

This is a bipartisan measure. It has been agreed upon. It is not vouchers by any stretch. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—41

Akaka	Dorgan	Levin
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Carper	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kerry	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	

NAYS—58

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Biden	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Byrd	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Thomas
Collins	Kohl	Thompson
Conrad	Kyl	Thurmond
Craig	Lieberman	Torricelli
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McCain	
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 711) was rejected.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 727

Mr. HARKIN. Mr. President, I call up amendment No. 727.

The PRESIDING OFFICER. The amendment is now pending under the previous agreement.

The Senator has 1 minute.

Mr. HARKIN. Mr. President, everyone in this body stated their commitment to keeping Social Security and Medicare solvent. What this amendment does is it says we are going to stick to that commitment before we put in place certain tax policy changes.

This amendment is very simple and straightforward. It simply delays—does not do away with—the implementation of the cut in the top rate for the wealthiest of Americans until we have

passed, and the President has signed, legislation that OMB certifies will assure the long-term solvency of both Social Security and Medicare.

The bill before us sets us back in our effort to ensure Social Security and Medicare solvency. In order to pay for these tax cuts, which go disproportionately to the wealthy few, and then also to meet our basic needs such as health care and law enforcement, in future years Social Security and Medicare would be raided. This is unacceptable. We need to strengthen these programs as we prepare the baby boomers to retire and not raid them to give tax breaks to a very wealthy few.

Again, this amendment simply says we delay the cut in the top rate until we secure Social Security and Medicare.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I think we went through similar debate and a vote yesterday on an approach by the senior Senator from West Virginia. So here we are again.

In March, we heard from people on the other side of the aisle that we need an economic stimulus immediately. And now we see an amendment—and it isn't just this amendment; it is amendment after amendment—seeking to delay the tax reduction.

This is another attempt to delay a tax cut until other programs are passed. We are working on making sure that Social Security and Medicare are solvent. Our budget agreement of 2 weeks ago speaks to that. And that does not mean we cannot provide tax relief for American taxpayers, and do it right now.

I strongly urge the defeat of the amendment.

Mr. President, this amendment is not germane to the provisions of the reconciliation bill before us. I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. HARKIN. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—45

Akaka	Biden	Boxer
Bayh	Bingaman	Byrd
Cantwell	Feingold	Lieberman
Carnahan	Feinstein	Lincoln
Carper	Graham	Mikulski
Cleland	Harkin	Murray
Clinton	Hollings	Nelson (FL)
Conrad	Inouye	Reed
Corzine	Johnson	Reid
Daschle	Kennedy	Rockefeller
Dayton	Kerry	Sarbanes
Dodd	Kohl	Schumer
Dorgan	Landrieu	Stabenow
Durbin	Leahy	Wellstone
Edwards	Levin	Wyden

NAYS—54

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Torricelli
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

CHANGE OF VOTE

Mr. BIDEN. Mr. President, I ask unanimous consent to change my vote on rollcall vote No. 137 from nay to aye. This will not change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 1 minute.

AMENDMENT NO. 721

Mr. KERRY. Mr. President, I call up amendment No. 721 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY. Mr. President, all of us know that in this bill there is an alternative minimum tax problem. What my amendment seeks to do is address that problem to the best of our ability by providing an exemption to all taxpayers at the income level of $100,000 or less from being put into the alternative minimum tax.

Today, there are 1.3 million Americans in the alternative minimum tax who paid it last year. Because of this bill and the lack of indexing for inflation, the result will be that almost 17 million Americans will pay about $40 billion by the year 2010 as a consequence of being pushed into a new bracket.

So we are telling people they are going to get a tax cut, but in effect they are not because there is a serious alternative minimum tax problem. I ask colleagues to help make it a fair tax bill for all Americans.

Mr. GRASSLEY. Mr. President, I rise in opposition to the amendment. Every Member of this Congress knows that we ought to do more about the alternative minimum tax than we do in this bill, or that is possible to do at all. It is a major problem that needs to be addressed. We have made good steps to address it by having the child credit be credited permanently against the AMT and, secondly, by increasing the AMT exemption to $2,000 for singles and $4,000 for joint returns.

These are good steps that will mean millions of Americans will not be subject to the AMT. These efforts in the bill go far to address the concerns raised in this amendment—specifically, that those making less than $100,000 should not be subject to the AMT. I think we have achieved a good balance in this bill on the AMT with other priorities, and this amendment would upset this balance and this bipartisan bill.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—46

Akaka	Dorgan	Lincoln
Bayh	Durbin	McCain
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Kohl	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—53

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 721) was rejected.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The next amendment is the Lieberman amendment No. 693.

Mr. GRASSLEY. Mr. President, I rise to make a unanimous consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is for the information of all of my colleagues. A number of Senators, obviously, will want to take a break for a quick lunch. I ask unanimous consent that we continue to vote another time or two until we approach 1 o'clock and then recess for 30 minutes until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, also, as a matter of procedure, we are getting down to five or six amendments. I hope the minority whip or somebody on that side has a list of amendments that may be proposed but have not been seen on this side. I ask if we can have that shared with us so we can get a better idea of what we have left to do.

Quite frankly, for Senator BAUCUS and me, it is a little difficult to manage all these amendments when we do not know what they are or when they are coming up. I would also like to pursue an agreement to finalize a list so we can get our work done.

I wonder if somebody on the other side of the aisle can help us with that?

In that regard I know there are people who think this bill came up too soon after it came out of committee, but the leader was asking me Tuesday night to bring this up Wednesday, after we voted it out of committee. I thought that was too soon. Senator BAUCUS said he did not want to bring it up that early. I just took it upon myself to say I would not file the papers until it came up on Thursday so we would have an opportunity for people to have access to the language of the bill to write amendments.

I hope we will have the courtesy, then, of seeing the amendments that might come up and know how many there are. I see the distinguished Democratic whip, and I wonder if he can respond to my request. My request is, if there is a list of amendments, could we have that list of amendments so we know what our work is going to be.

Mr. REID. Mr. President, I say to my friend from Iowa, who has worked so hard on this legislation, that we have a general idea of amendments, and we have been working this morning. I have a list of them in my pocket. We have quite a few. With the time we are going to have between 1 p.m. and 1:30 p.m., we will be able to have a more definitive list. Maybe even at 1 o'clock we can come up with—it will not be a complete list—a list so Senator GRASSLEY can have an idea of who is offering amendments and the subject matter of the amendments. We will work on that.

Was that the question the Senator asked?

Mr. GRASSLEY. Yes. I appreciate very much what the Senator said. I hope we can have such a list. We need to proceed in the bipartisan spirit under which Senator BAUCUS and I have been working and try to bring this bill to finality.

We have been able to defeat most amendments that have come before us. We know what this bill is going to look like for final passage and that we ought to get to final passage.

AMENDMENT NO. 693

The PRESIDING OFFICER. Who yields time on the Lieberman amendment? The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I call up amendment No. 693 and ask for the yeas and nays.

The PRESIDING OFFICER. That is the pending amendment. The yeas and nays have been ordered.

Mr. LIEBERMAN. I thank the Chair. Mr. President, this amendment aims at dealing with the current uncertainty in our economy and, in fact, obviously the intention of the Members of the Senate during debate on the budget resolution last month where, on a bipartisan basis, we adopted a stimulus package that was fair, fast, and fiscally responsible.

Unfortunately, the so-called stimulus plan in this bill that came out of the Finance Committee is not fair, fast, or fiscally responsible.

Simply put, the stimulus package in this plan will be hundreds of days late and hundreds of millions of dollars short of what America's families need, and that is a real economic stimulus now. The Federal Reserve recognized that again a few days ago in lowering interest rates.

That is why we have to do this in Congress. That is why this amendment will replace the semistimulus that is in the tax bill. It will offer cash, $300 to every American taxpayer, payroll and income tax. I urge its adoption.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, common sense tells me we cannot have it both ways, on the one hand telling the country we need an immediate tax cut stimulus and on the other hand vote after vote delaying this bill.

To pay for these checks, the Joint Tax Committee estimates the Secretary of Treasury will have to increase taxes on small business owners by about $24 billion.

This amendment is also unconstitutional from the standpoint that article I, section 7, gives Congress the taxing powers, not the Secretary of Treasury.

If we can pass this bill today, I believe we could be on our way to putting more cash in families' hands by July 1 with the changes in W–2s that will result with the 10-percent rate going into effect January 1 this year.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 693. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—43

Akaka	Durbin	Lieberman
Bayh	Edwards	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	
Dorgan	Levin	

NAYS—56

Allard	Ensign	McConnell
Allen	Enzi	Miller
Baucus	Fitzgerald	Murkowski
Bennett	Frist	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Chafee	Inhofe	Specter
Cochran	Jeffords	Thomas
Collins	Kyl	Thompson
Craig	Lincoln	Thurmond
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McCain	

NOT VOTING—1

Stevens

The amendment (No. 693) was rejected.

Mr. GRAMM. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 736, WITHDRAWN

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. My amendment is now pending, and in order to try to in some small way expedite getting on with the business of the American people, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. CORZINE. Mr. President, this motion would recommit H.R. 1836 to the Finance Committee and direct the committee to report back promptly with an amendment that eliminates any income tax cut for those earning

more than $500,000 a year, and uses the savings—approximately $24 billion a year, once fully effective, to establish a tax credit to help families afford the costs of long-term care.

Over 12 million senior and disabled Americans need long-term care today. That number will double over the next 10 years.

I believe that no one should have to spend down to Medicaid to afford long-term care, and no family should bear the burden alone.

A tax credit, as I propose, would provide much-needed relief to the families who provide long-term care for their loved ones, and is surely a better and fairer use of the surplus.

This is not about class warfare. This is about providing relief for our elderly and for the overburdened families who care for them. I thank Senators GRASSLEY, GRAHAM and BAYH for their leadership on this issue, and I hope my colleagues will agree that we should not provide a windfall for those earning more than half a million dollars a year, while ignoring the needs of so many families and the loved-one they struggle to care for.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. I thank Senator CORZINE for recognizing some of our work regarding long-term health care financing challenges. However, in addition to this amendment, we have had others that don't seem to recognize the Senate Finance Committee's function. We have held hearings on this very subject.

As I said, I am very committed to working at finding solutions to long-term financing challenges. In fact, I have introduced such a bill with Senator GRAHAM of Florida. The impending retirement of baby boom generations presents a great incentive to act soon.

What this motion doesn't recognize is that we do taxes one time and we will do long-term health care another time. We can do both. This bill is not the appropriate vehicle. This amendment will delay the tax reduction for working families.

I hope we can defeat this motion. I see it as a continuing effort to kill the bill.

I raise a point of germaneness. The amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CORZINE. I move to waive the Budget Act for consideration of the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—43

Akaka	Edwards	Lincoln
Bayh	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Cleland	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kerry	Stabenow
Daschle	Kohl	Torricelli
Dayton	Landrieu	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NAYS—56

Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Biden	Frist	Nickles
Bingaman	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Thomas
Cochran	Jeffords	Thompson
Collins	Kyl	Thurmond
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, it is my understanding, under the previous order, we will now be in recess for a half hour. The next amendment we have scheduled will be amendment No. 743, the Conrad amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 1:30 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 1:30 p.m. and reassembled when called to order by the Presiding Officer (Ms. SNOWE).

RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2002—Continued

AMENDMENT NO. 743

The PRESIDING OFFICER. Under the previous order, time will now be divided on the amendment offered by the Senator from North Dakota, Mr. CONRAD.

The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I am constrained to ask for another quorum call. Senator GRASSLEY is someone who has been here the entire time, and I would not feel right in going ahead without him. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

On the question of the Conrad amendment, who yields time?

If no one yields time, time will be charged equally on both sides.

The Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is about fairness and simplification. Under the bill before us, the very wealthiest taxpayers get the biggest percentage point reduction in their marginal rates, but the vast majority of taxpayers, the 70 million, who represent 70 percent of the taxpayers in this country, get no rate reduction.

This chart I show you tells the story. The 15-percent rate, which is where the vast majority of American taxpayers are, get no rate reduction. Those at the very top get the biggest rate reduction.

My amendment reduces the unfairness. It reduces the size of the tax cut for the top 3 percent of income earners. Specifically, my amendment leaves in place the first percentage point reduction for the top two tax rates but cancels the next two scheduled reductions, and it uses the savings from this change to increase the standard deduction by $1,500 for singles; for couples the standard deduction will be increased by twice this amount, or a full $3,000 when fully phased in.

This amendment is about fairness and simplification. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, not only is this amendment a bad

amendment but the information just given out is erroneous. It is wrong. It is bad.

Every taxpayer who pays income tax gets a marginal rate tax cut under this bill. Let's make that clear. Every taxpayer gets a tax reduction.

I do not know how many amendments we have had on this bill to kill the marginal rate tax reductions we have. We have had a flood of amendments from the other party. Not one amendment from the other party has been adopted yet. And I have to wonder, what has happened to bipartisanship? Is bipartisanship dead and buried, when just 5 months ago we talked so much about it? If so, I and Senator BAUCUS have not been invited to the funeral. I urge the defeat of this amendment.

The PRESIDING OFFICER. The time has expired on the Conrad amendment.

The question is on agreeing to the amendment that has been offered by the Senator from North Dakota.

Mr. REID. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—46

Akaka	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	
Dorgan	Levin	

NAYS—53

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Thomas
Collins	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 743) was rejected.

Mr. GRASSLEY. Madam President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 744

The PRESIDING OFFICER. The question is on agreeing to amendment No. 744 offered by the Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is about fairness and simplification. If we look at the bill before us, it gives the biggest rate reduction to the highest income-tax payers of all.

Only seven-tenths of 1 percent of the taxpayers are in the 39.6-percent bracket, but they get 20 percent more rate reduction than the 36-percent bracket, than the 31-percent bracket, than the 28-percent bracket. And in the 15-percent bracket, where the vast majority of taxpayers are in this country, 70 percent of the taxpayers get no rate relief—none.

My amendment simply takes the additional rate relief that the very wealthiest receive, the additional sixtenths of 1 percent—that is 20 percent more than the other brackets—and shifts it to the lowest 70 percent of the tax filers in this country. It says: Let's give fairness when we are giving tax relief.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I urge my colleagues to vote against the amendment. I am going to offer the rest of my time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I think we have been through some very excellent debate and discussion and votes. I urge all my colleagues to recognize it is now time for us to move on. We can vote well into the night or tomorrow or into the weekend, but I think we all recognize that with a sufficient number of votes now, the issues are pretty well decided. I hope we can bring this issue to closure and get back to the education bill.

We have fought a good fight here, those of us who have some differing views or different positions, but it is time to move on.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 744 offered by the Senator from North Dakota.

Mr. CONRAD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—47

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Jeffords	Schumer
Clinton	Johnson	Stabenow
Conrad	Kennedy	Torricelli
Corzine	Kerry	Wellstone
Daschle	Kohl	Wyden
Dayton	Landrieu	

NAYS—52

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Baucus	Gramm	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Santorum
Breaux	Hagel	Sessions
Brownback	Hatch	Shelby
Bunning	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Kyl	Thomas
Craig	Lincoln	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	
Enzi	Miller	

NOT VOTING—1

Stevens

The amendment (No. 744) was rejected.

AMENDMENT NO. 747

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 747, the Carper amendment. The Chair advises the Senator from Delaware that there are 2 minutes equally divided on his amendment.

Mr. CARPER. I thank the Chair.

Mr. President, this bipartisan alternative reduces taxes by $1.2 trillion over the next 10 years while making available $150 billion for underfunded education proposals that work.

Our measure provides for modest reductions in each of the marginal tax rates while establishing retroactively a new 10-percent bracket.

This amendment provides for estate tax relief but not for its elimination.

We double the child credit and make it partially refundable.

Unlike the committee bill, our proposal makes permanent the R&D credit.

We extend popular expiring tax breaks and speed up marriage penalty relief.

We provide greater AMT protection and fund a number of energy production and conservation incentives now, not later.

I thank Senator CHAFEE for joining me in offering this comprehensive alternative. I yield to him.

Mr. BUNNING. Mr. President, can we have a copy of the amendment, please. We do not have a copy of the amendment.

Mr. REID. Mr. President, the amendment, I say to my friend from Kentucky, was filed last night. It has been on file since sometime yesterday evening.

The PRESIDING OFFICER. There is an amendment at the desk.

The remainder of the time has been yielded to the Senator from Rhode Island, Mr. CHAFEE.

Mr. CHAFEE. Mr. President, the central tenet of this bill is reducing the tax cut down to $1.2 trillion. We would devote the other $150 billion towards educational initiatives.

How many of us have heard from our constituents about the high cost of the property taxes? The main contribution to these high property taxes is the cost of special education, and that is a Federal mandate.

Let us right now reduce the tax cut and put it towards IDEA and property tax relief.

I urge adoption of the Carper-Chafee property tax relief amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DASCHLE. Mr. President, I commend the Senator from Delaware for his substitute amendment and urge my colleagues to support it. While in my view both the underlying bill and the substitute cut taxes more deeply than this nation can afford, the Carper substitute is far preferable to the underlying bill. It is simply fairer than the underlying bill. It provides a marginal rate cut for the 72 million middle class taxpayers who were skipped over in the underlying bill. It includes immediate marriage penalty relief and permanent deductibility of college tuition. And so, although I would not support enacting a tax cut of $1.25 trillion, Senator CARPER's amendment deserves our support because it illustrates a far better and more balanced approach to tax and budget policy.

Mr. GRASSLEY. Mr. President, I urge my colleagues to vote against this amendment. This is another effort to cut our marginal tax rate cuts by $150 billion. I defer to the Senator from Oregon for further comment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, we have had many votes taken on the issue of the tax bill. We know how people are going to vote. We know the outcome. It is time to vote on this tax cut so we can get to education and deal with some of the issues Senators have identified.

For the sake of the American people, it is time to vote.

Mr. CARPER. I ask for the yeas and nays.

Mr. GRASSLEY. Mr. President, the amendment is not germane to the provisions of the reconciliation bill. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CARPER. Mr. President, I move to waive the relevant section of the Congressional Budget Act for consideration of this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

Mr. REID. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 55, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—43

Akaka	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Byrd	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Conrad	Johnson	Stabenow
Corzine	Kennedy	Wellstone
Daschle	Kerry	Wyden
Dayton	Kohl	
Dodd	Landrieu	

NAYS—55

Allard	Enzi	Murkowski
Allen	Fitzgerald	Murray
Baucus	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cantwell	Hutchison	Specter
Cleland	Inhofe	Thomas
Cochran	Kyl	Thompson
Collins	Lincoln	Thurmond
Craig	Lott	Torricelli
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

NOT VOTING—2

Leahy	Stevens

The PRESIDING OFFICER. On this question, the yeas are 43, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I ask to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I think we have a copy of the next amendment, so I am not speaking about the next amendment that will be up, but I will plead with the people on the other side who are stalling to keep us from voting on this bill to at least, within the spirit of how Senator BAUCUS and I have run the Finance Committee, be very open and transparent with us on what these amendments are going to be. We cannot expect 100 Members of the Senate to vote yes or no on an amendment unless we know what that amendment is.

The pattern I set in the Senate Finance Committee is best illustrated by something I told each of the other 19 members when I went to their offices to visit with them about how they saw the committee ought to function and how we ought to do business. That is, No. 1, transparency; and, No. 2, communication. The bottom line was I told every member if they wanted to know what was going on in this committee, all they had to do was ask and they would get an answer. If they didn't get an answer, at least they were entitled to know why they couldn't get an answer. And 99.9 percent of the time I figure everybody is entitled to know what everybody else is doing.

Now we reach a point where the product of this bipartisan effort is in this Chamber, and I hope in the very same way we can communicate with each other, we can be very transparent. But most important, on the issue of what amendments we are going to vote on, we ought to have those amendments at the desk so we can study them while we are debating other amendments.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use my leader time to respond to the distinguished Senator from Iowa as well as to make a couple of comments about the next amendment.

I think the Senator from Iowa is absolutely right. We have no intention of denying him the opportunity to look at the amendments. I ask our assistant Democratic leader if he could take responsibility for ensuring that we would have not only the list of amendments, which we would be happy to share with the Senator, but the text of the amendments as well. I know he has a copy of the amendment about to be offered, and we will do our utmost to ensure copies are made available, as well as the list and the sequence of the amendments to be offered next.

AMENDMENT NO. 722

I now ask that amendment No. 722 be considered at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DASCHLE] proposes an amendment numbered 722.

Mr. DASCHLE. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under ''Amendments Submitted and Proposed.'')

Mr. DASCHLE. Mr. President, many Members have said for some time while we strongly support a tax cut, we have been very concerned about the flaws in this tax cut, concerned because it is based on projections we have grave doubts will ever be realized, budget projections that will be changed as early as July of this year; concerned about the magnitude, the size of the tax cut, and what we know it will do to Social Security and Medicare and how it will take away funds from those extraordinarily important commitments we made to our seniors; concerns we have about our ability to pay down the public debt; concerns we have about our ability to pay for prescription drug benefits or fully fund our education commitments.

We have a great number of concerns given the magnitude of this tax cut. We also are concerned about its fairness. This tax cut could be best described as devoting a third, a third, and a third to three very distinct categories of taxpayers. This tax cut gives one-third of the entire benefit to the top 1 percent of all taxpayers. Roughly a third goes to the next 19 percent of all taxpayers. And somewhat less than a third goes to the bottom 80 percent of all taxpayers. That is ultimately, in the second ten-year period, $4 trillion divided into a third, a third, and a third—a third for the top 1 percent, a third for the next 19 percent, and a third for the bottom 80 percent.

The tax bill before us also provides reductions in the tax rates—that is, to every rate except the 15 percent rate under which 72 million American taxpayers fall. Those 72 million Americans—including 250,000 South Dakota taxpayers—are denied a marginal tax rate cut in this bill.

We think we can do better than that. Our country deserves better than that. So we offer our alternative. Our alternative is fiscally responsible. It dedicates $900 billion to a tax cut, provides adequate resources for us to continue the effort to pay down the debt, and leaves adequate resources for us to meet the other obligations we have in health care, education, and Social Security and Medicare.

This amendment also recognizes the need for fairness. It provides a tax cut for everybody, but it also provides marriage penalty relief that starts next year, not in 5 years; a $1,000 child tax credit that extends to working families with incomes over $8,000; estate tax relief, providing up to $4 million for couples and $8 million for farms and small businesses; and it provides a tuition tax deduction for middle class Americans who send their children to college.

It provides savings incentives to encourage small businesses to provide pensions for their employees, and a permanent R&D tax credit. It eliminates the alternative minimum tax for incomes up to $80,000 and provides for energy conservation and efficiency tax incentives for more energy efficient homes, appliances, and cars.

I will not belabor this. I will simply say this is the Democratic approach to meaningful tax relief this year, tax relief that can be realized this year, not 7 or 8 years from now, tax relief that recognizes we also have other very important priorities, priorities involving paying down the debt, priorities involving ensuring our commitment to education, health, Social Security, and other priorities that recognize the importance of fairness. I urge its adoption and yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There will be 2 minutes equally divided. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, obviously the minority leader has a right to offer this amendment, even at this late hour and even as thick as it is. We all know under the rules of reconciliation you can offer amendments forever.

But I want to remind my colleagues that in 1993 when we were on the floor of the Senate and we were considering, under reconciliation, a massive tax increase that was proposed by then-President Clinton, we could have followed the same strategy. We could have offered amendments endlessly. We hated that tax increase as much as some of your colleagues hate this tax cut. But I think wiser heads prevailed, recognizing that in doing that we were trying to do two things that were bad: First, we were corroding the basic structure of the Senate in using our rights in ways that really undercut how the system works in reconciliation; and, second, we were trying to win on the floor of the Senate what we had lost in the election.

I ask unanimous consent for 1 minute under the leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I think, second, we would have been trying to win on the floor of the Senate what we had lost in the election.

I am no happier about the Clinton tax increase today than I was 8 years ago. But I believe we did the right thing 8 years ago and I would just like to say to my colleagues, the Senate has worked its will. We know in the end what the outcome is going to be. We voted on virtually every amendment that can be imagined, at least by the minds of Senators—maybe not the mind of man but Senators.

I ask my colleagues to let us bring this to a conclusion and to have the vote. That is the plea. I simply ask people look at where we are and ask are we serving our institution and are we, in the process here, really abusing a right that every Senator has. Nobody is saying they do not have it. Nobody is saying this is foul play. I just think what goes around comes around.

I urge my colleagues to remember, 8 years ago when we did not do this, when you had a President and when you were taking the country in a different direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent for 3 minutes to answer the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask for 3 minutes on each side. I think Senator GRAMM somewhat responded to Senator DASCHLE.

The PRESIDING OFFICER. Without objection, 3 minutes on each side.

Mr. CONRAD. Mr. President, I remind colleagues 1993 was fundamentally different than this year. In 1993 we were using the reconciliation process for the reason intended. The reason intended for the reconciliation process was to reduce deficits. That was a plan to reduce deficits.

This is a plan that many of us believe is totally outside the reconciliation process, totally outside of what was intended for reconciliation. This is not a deficit reduction package; this is a tax cut. It ought to be handled in the way other legislation is handled, with Senators having the right to debate and to amend.

We are under a very truncated process that takes away the minority's fundamental rights in this body. If we want to talk about the institution and what is critical for the functioning of this institution, and the fairness towards the minority and minority rights, then that is right at the heart of what is occurring here today because the rights of the minority have been truncated. The rights of the minority have been abridged. The rights of the minority have been left out.

That is why we are in a process in which the only way we can express ourselves is to offer amendment after amendment so we can make the case that we believe holds against this tax bill.

There is a fundamental and profound difference between what is happening today and 1993, when reconciliation was used for deficit reduction. That was precisely what reconciliation was designed to be used for. It is not and was never designed to be used for a tax cut.

The rights of the minority have been, in our view, limited. All of us will pay a price in the future if we allow ourselves to be turned into a House of Representatives where Senators lose their fundamental right to debate, their fundamental right to amend.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. We have 3 minutes?

Mr. President, fellow Senators, let me first say that in 1974 we changed the law that applies to the Senate with

reference to how long you take on a budget resolution and what kind of amendments you can offer in a reconciliation bill. That was a law changed because we decided for the first time in the history of our country we would have a budget. We didn't have budgets before then, believe it or not. That budget process was invented then by that statute and the Senate, by an incredibly high vote—I think it was everybody but one—voted for that, including those who do not think we ought to use reconciliation to raise taxes and lower taxes both. This was voted in.

You will find since then that on three occasions the Senate has spoken on the issue of whether or not you can cut taxes in reconciliation. Three times we voted that that is appropriate. We have, on this process, this year. There was a vote in this body where Senators voted on whether we would use reconciliation in this bill for tax cuts. The whole argument was presented against it, on which my good friend Senator BYRD took a long time and presented all the history on it. I did the opposite. We voted. By a 51–49 vote we said let's use reconciliation and let's use it to cut taxes. Then we voted a resolution that said how much the taxes should be cut, and we told the Finance Committee to return the bill, which is now before us.

I do not know how you can claim we are violating anybody's rights. We have voted on those issues. They are the law of the land. When you want to repeal or change the 1974 law, do so. It might need amending. It might need changing.

Three times we voted on a reconciliation bill to cut taxes—three times. This is the fourth time. But this time we even took up the issue: Should we do it or not? And we said yes.

With that in mind I must say to my friends on the other side, it looks to me like, when we have spent a total of 31 and a half hours including the votes on this bill, and we have had 32 votes and only 1 passed. It was kind of irrelevant—a good amendment; a Senator on this side offered it, good amendment but actually it had nothing to do with the budget, the one that passed.

I think everybody in America should know this bill is going to get a significant majority, bipartisan, of U.S. Senators under this particular set of facts that I just described.

So, if we have not debated it enough, how long should it be debated? If we have not done everything can you do on this bill to make the two major points the Democrats want to make, I don't know how many more votes, how much more time you need?

I yield the floor.

Mr. GRASSLEY. Point of order, Mr. President. This amendment that we are supposed to know was here overnight, has a point of order against it. The amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. DASCHLE. Mr. President, I move to waive the relevant sections of the budget act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—41

Akaka	Durbin	Levin
Biden	Edwards	Lieberman
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carper	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Leahy	

NAYS—58

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Carnahan	Hutchison	Specter
Chafee	Inhofe	Thomas
Cleland	Jeffords	Thompson
Cochran	Kyl	Thurmond
Collins	Lincoln	Torricelli
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	
Domenici	McConnell	

NOT VOTING—1

Stevens

The PRESIDING OFFICER (Mr. CRAPO). On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. DASCHLE. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. What is the matter now before the Senate?

The PRESIDING OFFICER. Unless consent is granted, we will call up amendment No. 675.

Mr. REID. The Collins amendment?

The PRESIDING OFFICER. Amendment No. 675, unless it is agreed to be set aside.

The Senator from Utah.

Mr. HATCH. I ask unanimous consent that the amendment be set aside.

Mr. REID. I could not hear the Senator from Utah.

Mr. CONRAD. Could we have order in the Chamber, Mr. President.

The PRESIDING OFFICER. The Senator from Utah asked unanimous consent that the Collins amendment be set aside.

Without objection, it is so ordered.

Mr. HATCH. As I understand it, the next amendment is Mr. CONRAD's, the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

MOTION TO RECOMMIT

Mr. CONRAD. Mr. President, anybody who knows and cares about Social Security reform, knows that it costs money.

The PRESIDING OFFICER. Will the Senator suspend so the clerk can report.

Mr. CONRAD. I am pleased to do so.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] moves to recommit H.R. 1836 to the Committee on Finance with instructions to report back within 3 days with the following changes: (1) reduce the marginal rate cuts in the top brackets and estate tax cuts by a total of $350,000,000,000 over the total of fiscal years 2002 through 2011; and (2) add the following new section:

SEC. . STRATEGIC RESERVE FUND FOR SOCIAL SECURITY REFORM AND DEBT REDUCTION.

If legislation is reported by the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would strengthen Social Security, extend the solvency of the Social Security Trust Funds, maintain progressivity in the Social Security benefit system, and continue to lift more seniors out of poverty, the Chairman of the appropriate Committee on the Budget shall revise the aggregates, functional totals, allocations, and other appropriate levels and limits in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, by an amount not to exceed $350,000,000,000 for the total of fiscal years 2002 through 2011, as long as that legislation will not, when taken together with all other previously-enacted legislation, reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any of fiscal years 2002 through 2011.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, every single plan to strengthen Social Security that has been proposed by any Member on either side of the aisle costs money. Unfortunately, we don't have the money in this budget.

This bill is dramatically backloaded. It costs $1.3 trillion this decade. It costs more than $4 trillion next decade, at the very time the massive surpluses now turn to substantial deficits then.

My amendment says: Take $350 billion out of this tax cut and reserve it to strengthen Social Security. We all know it costs money. We ought to reserve it now. We ought to strengthen Social Security for the future.

I urge my colleagues' support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we have had 8 years where we haven't had any strengthening of Social Security, while there was a Democrat President. There is no question we need to do that, but there is also no question that this is a tax bill and we are trying to reduce taxes so we can stimulate the economy and keep our economy going.

When I got here this year, I thought we were surely going to have more bipartisanship, but here we go again. This is another in a long list of amendments meant to slow down and stop this bill. When is this partisanship going to end?

I urge the defeat of this amendment. The pending amendment is not germane under the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections for consideration of the pending motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

The yeas and nays resulted—yeas 41, nays 57, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—41

Akaka	Durbin	Levin
Biden	Edwards	Lieberman
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Leahy	

NAYS—57

Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cleland	Inhofe	Thomas
Cochran	Kyl	Thompson
Collins	Lincoln	Thurmond
Craig	Lott	Torricelli
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NOT VOTING—2

Jeffords	Stevens

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the motion falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 765

Mr. REID. Mr. President, I call up amendment 765.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. DORGAN, and Mr. GRAHAM, proposes an amendment numbered 765.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes)

On page 314, after line 21, add the following:

SEC. . NEW GUARANTEED MINIMUM PRIMARY INSURANCE AMOUNT WHERE ELIGIBILITY ARISES DURING TRANSITIONAL PERIOD.

(a) IN GENERAL.—Section 215(a) of the Social Security Act (42 U.S.C. 415(a)) is amended—

(1) in paragraph (4)(B)—

(A) by inserting ''(with or without the application of paragraph (8))'' after ''would be made''; and

(B) in clause (i), by striking ''1984'' and inserting ''1989''; and

(2) by adding at the end the following:

''(8)(A) In the case of an individual described in paragraph (4)(B) (subject to subparagraphs (F) and (G) of this paragraph), the amount of the individual's primary insurance amount as computed or recomputed under paragraph (1) shall be deemed equal to the sum of—

''(i) such amount, and

''(ii) the applicable transitional increase amount (if any).

''(B) For purposes of subparagraph (A)(ii), the term 'applicable transitional increase amount' means, in the case of any individual, the product derived by multiplying—

''(i) the excess under former law, by

''(ii) the applicable percentage in relation to the year in which the individual becomes eligible for old-age insurance benefits, as determined by the following table:

''If the individual become eligible for such benefits in:	**The applicable percentage is:**
1979	55 percent
1980	45 percent
1981	35 percent
1982	32 percent
1983	25 percent
1984	20 percent
1985	16 percent
1986	10 percent
1987	3 percent
1988	5 percent

''(C) For purposes of subparagraph (B), the term 'excess under former law' means, in the case of any individual, the excess of—

''(i) the applicable former law primary insurance amount, over

''(ii) the amount which would be such individual's primary insurance amount if computed or recomputed under this section without regard to this paragraph and paragraphs (4), (5), and (6).

''(D) For purposes of subparagraph (C)(i), the term 'applicable former law primary insurance amount' means, in the case of any individual, the amount which would be such individual's primary insurance amount if it were—

''(i) computed or recomputed (pursuant to paragraph (4)(B)(i) under section 215(a) as in effect in December 1978, or

''(ii) computed or recomputed (pursuant to paragraph (4)(B)(ii) as provided by subsection (d). (as applicable) and modified as provided by subparagraph (E).

''(E) In determining the amount which would be an individual's primary insurance amount as provided in subparagraph (D)—

''(i) subsection (b)(4) shall not apply;

''(ii) section 215(b) as in effect in December 1978 shall apply, except that section 215(b)(2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 61, plus the 3 calendar years after such period for which the total of such individual's wages and self-employment income is the largest; and

''(iii) subdivision (I) in the last sentence of paragraph (4) shall be applied as though the words 'without regard to any increases in that table' in such subdivision read 'including any increases in that table'.

''(F) This paragraph shall apply in the case of any individual only if such application results in a primary insurance amount for such individual that is greater than it would be if computed or recomputed under paragraph (4)(B) without regard to this paragraph.

''(G)(i) This paragraph shall apply in the case of any individual subject to any timely election to receive lump sum payments under this subparagraph.

''(ii) A written election to receive lump sum payments under this subparagraph, in lieu of the application of this paragraph to the computation of the primary insurance amount of an individual described in paragraph (4)(B), may be filed with the Commissioner of Social Security in such form and manner as shall be prescribed in regulations of the Commissioner. Any such election may be filed by such individual or, in the event of such individual's death before any such election is filed by such individual, by any other beneficiary entitled to benefits under section 202 on the basis of such individual's wages and self-employment income. Any such election filed after December 31, 2001, shall be null and void and of no effect.

''(iii) Upon receipt by the Commissioner of a timely election filed by the individual described in paragraph (4)(B) in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of such election to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay such individual, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000, in 4 annual lump sum installments of $1,250, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

''(II) subparagraph (A) shall not apply in determining such individual's primary insurance amount.

''(iv) Upon receipt by the Commissioner as of December 31, 2001, of a timely election filed in accordance with clause (ii) by at least one beneficiary entitled to benefits on the basis of the wages and self-employment income of a deceased individual described in paragraph (4)(B), if such deceased individual has filed no timely election in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of all such elections received as of such date to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay each beneficiary filing such a timely election, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000 (or, in the case of 2 or more such beneficiaries, such amount distributed evenly among such beneficiaries), in 4 equal annual lump sum installments, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

''(II) solely for purposes of determining the amount of such beneficiary's benefits, subparagraph (A) shall be deemed not to apply in determining the deceased individual's primary insurance amount.''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) APPLICABILITY OF AMENDMENTS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(B) APPLICABILITY.—No monthly benefit or primary insurance amount under title II of the Social Security Act shall be increased by reason of such amendments for any month before July 2002. The amendments made in this section shall apply with respect to benefits payable in months in any fiscal year after fiscal year 2005 only if the corresponding decrease in adjusted discretionary spending limits for budget authority and outlays under section 3 of this Act for fiscal years prior to fiscal year 2006 is extended by Federal law to such fiscal year after fiscal year 2005.

(2) RECOMPUTATION TO REFLECT BENEFIT INCREASES.—Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute the primary insurance amount so as to take into account the amendments made by this Act in any case in which—

(A) an individual is entitled to monthly insurance benefits under title II of such Act for June 2002; and

(B) such benefits are based on a primary insurance amount computed—

(i) under section 215 of such Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977).

(c) OFFSET PROVIDED BY PROJECTED FEDERAL BUDGET SURPLUSES.—Amounts offset by this section shall not be counted as direct spending for purposes of the budgetary limits provided in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

Mr. REID. Mr. President, this amendment is offered on behalf of myself, Senator DORGAN, and Senator GRAHAM of Florida.

Notch babies, listen. This amendment helps dissolve the unfair notch for those born beginning in 1917. Townhalls, e-mails, letters, casual conversations—Senators, this is your opportunity to say ''yes'' to the notchers. A ''no'' vote is a stab in the back of America's greatest generation. Vote ''yes'' to restore dignity to these people who deserve it. Notch babies are to be protected today.

Mr. GRASSLEY. Mr. President, I rise in opposition to this amendment. While I understand how important the notch issue is to millions of senior citizens, this is neither the time nor the place to address this issue.

The bill before us today provides much needed tax relief to hard working Americans. The amendment offered by Senator REID is not germane to this bill.

This amendment has never been reviewed by any committee of jurisdiction, nor scored by the Congressional Budget Office. No one has any idea how much it would cost or what new benefit inequities it would create. In addition, the proposed offset contained in the amendment is an unconstitutional delegation of legislative authority to the Secretary of the Treasury. This is not a serious amendment.

If Congress is going to seriously consider this issue, it must be done in the context of overall Social Security reform so we can carefully consider the costs and benefits of any proposed change.

Mr. HATCH. Mr. President, we oppose this amendment. I yield to the Senator from Maine.

Ms. COLLINS. Mr. President, I rise in opposition to the amendment. The Senator has raised an important issue dealing with the appropriate treatment of those who are known as the notch babies.

We all know this is not the bill on which to resolve this issue. We need to take up that issue in the context of modernizing our Social Security system, and this is just another attempt to delay final passage of the tax bill. So I encourage my colleagues to oppose this amendment regardless of their views on the underlying issue, and let's get on with the vote and approve this bill.

Mr. REID. Mr. President, I will use 1 minute on leader time. If this is not the time to help notch babies, when is it? Some of them are approaching 84 years of age. Are we going to wait until next year until more die, or the year after? People go home and say nice things about the notch babies. Well, let's vote a nice thing for them today. Today is the day. There is no other day. This is our opportunity to take the notch unfairness out of our law.

Mr. HATCH. Mr. President, I will use 1 minute out of leader time. We just lived through 8 years of a Democratic President, and no one effort was successful—or even tried, as far as I can recall—to help the notch babies. I have always voted in favor of helping the notch people, but the pending amendment is not germane and those on the other side know it. They are getting a great kick out of bringing this up. It is not germane.

I raise a point of order against the amendment under 305(b)(2) of the Congressional Budget Act.

Mr. REID. Mr. President, under all applicable rules of the Senate and the law, I ask that there be a waiver of the Budget Act, and I further say, explain to the notch babies that you are voting on some point of order.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I claim 1 minute under the procedure to speak on the motion.

The PRESIDING OFFICER. The order provides for only 1 minute on each side.

Mr. HATCH. I ask unanimous consent that the Senator from Maryland be given 1 minute, and that we have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, on more than one amendment it has been said that for 8 years we had a Democratic President and we didn't do anything about this issue. We spent most of those 8 years working ourselves out of the deficit box into which we have been placed by the previous administrations.

It is only now when we have some surpluses that we can start talking about doing something about these issues. How were you going to do something when you had a deficit? This is a very worthy cause for using some of those surpluses that we now have. I urge support for the Reid amendment.

Mr. HATCH. Mr. President, I will use 1 more minute. Well, it seems a little odd to me that after all these years, all of a sudden on a tax cut bill where we are trying to stimulate the economy, we get this issue. It is time to vote to reduce taxes. It is time to reduce the games. It is time to quit the partisanship. It is time to end this bill and get a vote up or down. If you can win, you win. If you can't win, you don't win.

Let's vote on this bill and quit playing partisan politics.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—55

Akaka	Edwards	Miller
Baucus	Ensign	Murray
Bayh	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Graham	Reed
Boxer	Harkin	Reid
Breaux	Hollings	Rockefeller
Byrd	Hutchinson	Sarbanes
Cantwell	Inouye	Schumer
Carnahan	Johnson	Sessions
Cleland	Kennedy	Shelby
Clinton	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	
Dorgan	Mikulski	

NAYS—43

Allard	Durbin	McCain
Allen	Enzi	McConnell
Bennett	Fitzgerald	Murkowski
Bond	Frist	Nickles
Brownback	Gramm	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Smith (NH)
Campbell	Hagel	Smith (OR)
Carper	Hatch	Snowe
Chafee	Helms	Thomas
Cochran	Hutchison	Thompson
Collins	Inhofe	Thurmond
Craig	Kyl	Voinovich
Crapo	Lott	
DeWine	Lugar	

NOT VOTING—2

Jeffords Stevens

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 756

(Purpose: To require the Secretary of the Treasury to adjust the reduction in the highest marginal income rate if the discretionary spending level is exceeded in fiscal year 2002)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I call up amendment No. 756.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 756.

On page 314, after line 21, add the following:

SEC. . ADJUSTMENT TO RATES IN RESPONSE TO BREACH OF LIMITS.

If, in fiscal year 2002, the discretionary spending level assumed in the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83) for such year is exceeded, the Secretary of the Treasury shall adjust the reduction in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a), for taxable years beginning in calendar years after such fiscal year as necessary to offset the decrease in the Treasury resulting from such excess.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wanted the amendment to be read because it is a short amendment. It is a fairly straightforward amendment. It is a modest effort at making the bill a little more fiscally responsible.

The amount of the tax cut is set forth in the budget resolution. That same budget resolution sets a cap for domestic discretionary spending. We are not waiting, as we should, to see how big a tax cut we should put in place to see whether or not we are going to live under those caps which the budget resolution sets for domestic discretionary spending.

This amendment says if Congress breaks the spending caps in the budget resolution, then this 1-percent reduction in the upper bracket, which is provided for in this fiscal year, will not go into effect to the extent that it is necessary to pay for the excess in domestic discretionary spending for which the Congress votes. Otherwise, we are dipping into the Medicare surplus.

This is an amendment for fiscal responsibility. It is modest and will help make this bill more fiscally responsible.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Utah.

Mr. HATCH. I yield to the Senator from Ohio.

Mr. DEWINE. Mr. President, this is the Senate. We do believe in free and open debate and amendments. But we go on hour after hour after hour. I have not counted the number of amendments on which we have voted. We are probably over 40 amendments. It seems we need to move on; we need to pass this bill and we need to move forward.

This is a bill that has been debated; it has been compromised. I think the Senate needs to work its will. I know the amendments keep coming, but at some point we need to pass it and get to conference and send it to the President.

Mr. HATCH. The Levin amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. LEVIN. Mr. President, I move to waive the relevant sections of the act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—41

Akaka	Boxer	Clinton
Biden	Cantwell	Conrad
Bingaman	Carnahan	Corzine
Daschle	Inouye	Murray
Dayton	Johnson	Nelson (FL)
Dodd	Kennedy	Reed
Dorgan	Kerry	Reid
Durbin	Kohl	Rockefeller
Edwards	Landrieu	Sarbanes
Feingold	Leahy	Schumer
Feinstein	Levin	Stabenow
Graham	Lieberman	Wellstone
Harkin	Lincoln	Wyden
Hollings	Mikulski	

NAYS—58

Allard	Domenici	Miller
Allen	Ensign	Murkowski
Baucus	Enzi	Nelson (NE)
Bayh	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Byrd	Helms	Snowe
Campbell	Hutchinson	Specter
Carper	Hutchison	Thomas
Chafee	Inhofe	Thompson
Cleland	Jeffords	Thurmond
Cochran	Kyl	Torricelli
Collins	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 767

Mrs. BOXER. Mr. President, I send an amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for Mr. NELSON of Florida, for himself and Mrs. BOXER, proposes an amendment numbered 767.

Mrs. BOXER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To aid public health and improve water safety by providing tax-exempt bond authority to water systems to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences and adopted by the World Health Organization and European Union)

On page 314, after line 21, add the following:

SEC. ___. TAX-EXEMPT BOND AUTHORITY FOR TREATMENT FACILITIES REDUCING ARSENIC LEVELS IN DRINKING WATER.

(a) IN GENERAL.—Section 142(e) (relating to facilities for the furnishing of water) is amended—

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

(2) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—For purposes'', and

(3) by adding at the end the following:

''(2) FACILITIES REDUCING ARSENIC LEVELS INCLUDED.—Such term includes improvements to facilities in order to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences.''.

(b) FACILITIES NOT SUBJECT TO STATE CAP.—Section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4), the following new paragraph:

''(5) any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

(c) EXEMPT FROM AMT.—Section 57(a)(5)(C) (relating to tax-exempt interest of specified private activity bonds) is amended by adding at the end the following new clause:

''(v) EXCEPTION FOR CERTAIN WATER FACILITY BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

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

Mrs. BOXER. Mr. President, in my minute I hope I can convince colleagues on both sides of the aisle to support this amendment. Just this past weekend, President Bush called for a war on poverty. This amendment is a step in that direction. It is offered in that spirit. What we do is help 1.5 million veterans who are now living in poverty by giving a tax credit to those employers who hire them. This idea was proposed and is supported by the National Coalition for Homeless Veterans and the Noncommissioned Officers Association. Veterans groups tell me the current tax credit, Welfare To Work, is not working for veterans because they are not on welfare. They need this tax credit.

So we send our people into harm's way and sometimes they come back and they really are having a tough time integrating into society, getting a meaningful job. This will reward employers who give them a job. And, by the way, we pay for it by bringing that top rate down to, not 36 percent but 36.05 percent. Let's do this for our veterans.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I say to the Senator from California, she does not have a bad amendment. I think in the proper time and place, such as on the Work Opportunity Training Act or things of that nature, it would be a good thing to do and for us to take a look at it. I will be glad to take a look at it. But at this point I am going to have to ask the amendment be defeated.

I raise a point of order, but it needs to be defeated because of the changes it makes in the tax rates. We are working on a tax bill. We have a well-balanced, well-crafted bipartisan bill. We have had 40 votes on amendments. There is too much effort, regardless of the good faith of this person in offering a good idea, to stall, stall, stall. I think we have to get this bill passed and get tax relief to the American people.

I raise a point of order. The point of order is against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am not trying to stall. I am trying to make this a better bill for our people, including our veterans.

I move we waive the Budget Act.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—49

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—50

Allard	Enzi	McConnell
Allen	Fitzgerald	Miller
Baucus	Frist	Murkowski
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. DASCHLE. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader.

AMENDMENT NO. 768

(Purpose: To limit the reduction in the 39.6 rate bracket to 1 percentage point and to increase the maximum taxable income subject to the 15 percent rate)

Mr. DASCHLE. Mr. President, I have amendment No. 768 at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself and Mr. MCCAIN, proposes an amendment numbered 768.

Mr. DASCHLE. I ask unanimous consent reading of the amendment be dispensed with.

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

On page 9, in the matter between lines 11 and 12, strike ''37.6%'' in the item relating to 2005 and 2006 and insert ''38.6%'' and strike ''36%'' in the item relating to 2007 and thereafter and insert ''38.6%''.

On page 13, between lines 15 and 16, insert:

SEC. 104. INCREASE IN MAXIMUM TAXABLE INCOME FOR 15 PERCENT RATE BRACKET.

(a) IN GENERAL.—Section 1(f) (relating to adjustments in tax tables so that inflation will not result in tax increases), as amended by section 302, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D),

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

''(B) in the case of the tables contained in subsections (a), (b), (c), and (d), by increasing the maximum taxable income level for the 15 percent rate bracket and the minimum taxable income level for the next highest rate bracket otherwise determined under subparagraph (A) (after application of paragraph (8)) for taxable years beginning in any calendar year after 2004, by the applicable dollar amount for such calendar year,'', and

(C) by striking ''subparagraph (A)'' in subparagraph (C) (as so redesignated) and inserting ''subparagraphs (A) and (B)'', and

(2) by adding at the end the following:

''(9) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2)(B), the applicable dollar amount for any calendar year shall be determined as follows:

''(A) JOINT RETURNS AND SURVIVING SPOUSES.—In the case of the table contained in subsection (a)—

''Calendar year:	Applicable Dollar Amount:
2005	$1,000
2006	$2,000
2007	$3,000
2008	$4,000
2009 and thereafter	$5,000.

''(B) OTHER TABLES.—In the case of the table contained in subsection (b), (c), or (d)—

''Calendar year:	Applicable Dollar Amount:
2005	$500

"Calendar year:	Applicable Dollar Amount:
2006	$1,000
2007	$1,500
2005	$2,000
2009 and thereafter	$2,500.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect one day after the date of the enactment of this Act.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, this amendment is offered on behalf of the senior Senator from Arizona and myself, Mr. MCCAIN. It simply says that, instead of cutting the top marginal rate to 36 percent, cut the top rate to 38.6 percent. In turn, the savings would be devoted to expanding the 15 percent income tax bracket. The idea is to make this bill more fair by shifting more of its benefits to middle class people.

This is an amendment for which there has been some debate. This amendment is similar to the amendment offered by Senator McCain earlier. This amendment ought to be adopted and ought to be made a part of the pending bill. I ask for its adoption.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GRAMM. I object.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The objection is heard.

Mr. GRAMM. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment No. 768. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Bayh	Dorgan	Lincoln
Biden	Durbin	McCain
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—50

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Baucus	Gramm	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Santorum
Breaux	Hagel	Sessions
Brownback	Hatch	Shelby
Bunning	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	

The amendment (No. 768) was rejected.

Mr. GRAHAM. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 748

Mr. NELSON of Florida. Mr. President, I call up amendment No. 748.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 748.

The amendment is as follows:

(Purpose: To provide a proportionate reduction in the credit for State death taxes before repeal, thereby allowing for responsible full estate tax repeal)

On page 66, before line 2, insert the following:

''(C) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—

''(i) IN GENERAL.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the Secretary shall prescribe percentage point reductions which maintain the proportionate relationship (as in effect before any reduction under this paragraph) between the credit under section 2011 and the tax rates under this subsection.''.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from section 2001(c)(2)(C) of the Internal Revenue Code of 1986 (as added by the amendments made by subsection (c)).

Beginning on page 70, line 20, strike all through page 79, line 6.

Mr. NELSON of Florida. Mr. President, this is an amendment everybody can vote for because you want to protect your States. The bill phases out the estate tax for the State portion much quicker than it phases out the entire estate tax. It is going to put a real financial burden on our States. Under the existing bill, the State portion would be repealed much faster, not leaving our States enough time to prepare and plan for the loss of revenue. That is unfair to our State governments.

This amendment, sponsored by Senator GRAHAM and myself, would result in the full repeal of the estate tax but would phase out the State estate tax portion at a rate consistent with the repeal of the Federal portion and would pay for it through a temporary reduction in the top marginal rate cuts.

This would provide for a responsible full repeal of the estate tax while leaving time for our States to plan for this loss of revenue to the States.

I yield back the time, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is another one of those amendments. It has just a little change from what we voted on last night.

This delegates to the Secretary of the Treasury the setting of tax rates. I think this very much is an affront to the constitutional requirement that all revenue measures shall originate in the House.

Senator NELSON's amendment strikes at the heart of the principal jurisdiction over taxation held by the House Ways and Means Committee and the Senate Finance Committee. Every year, for 10 years, he delegates the top marginal income tax rate to the Secretary of the Treasury to determine.

This amendment sacrifices the American taxpayer for the convenience of the State treasuries. I urge defeat of the amendment.

I have a point of order I want to raise. The amendment is not germane to the provisions of the reconciliation measure. That point of order is, as you have heard so many times: I raise a point of order that the amendment violates section 305(b)(2) of the Budget Act.

Mr. NELSON of Florida. Mr. President, I was not aware that a point of order would lie on this. I would like to know what the Parliamentarian says.

The PRESIDING OFFICER. The Chair will rule on the Senator's point of order if he wishes.

The amendment is not germane.

Mr. NELSON of Florida. I am sorry, I could not hear.

The PRESIDING OFFICER. The amendment is not germane. The point of order is sustained.

Mr. NELSON of Florida. Then, Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to waive is too late at this point. The Chair has ruled.

Mr. GRASSLEY. Then we are done. Let's move on to the next amendment.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. If this is appropriate, I ask unanimous consent that the Senator from Florida be allowed to put in his request for a waiver of the germaneness rule and have a vote on it.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. NELSON of Florida. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question now is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 42, nays 57, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—42

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Cantwell	Feinstein	Nelson (FL)
Carnahan	Graham	Nelson (NE)
Carper	Harkin	Reed
Cleland	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Landrieu	Wellstone

NAYS—57

Allard	Fitzgerald	Nickles
Allen	Frist	Roberts
Baucus	Gramm	Santorum
Bennett	Grassley	Sessions
Bond	Gregg	Shelby
Breaux	Hagel	Smith (NH)
Brownback	Hatch	Smith (OR)
Bunning	Helms	Snowe
Burns	Hutchinson	Specter
Byrd	Hutchison	Stevens
Campbell	Inhofe	Thomas
Chafee	Jeffords	Thompson
Cochran	Kyl	Thurmond
Collins	Lincoln	Torricelli
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	Wyden
Domenici	McConnell	
Ensign	Miller	
Enzi	Murkowski	

NOT VOTING—1

Kohl

The PRESIDING OFFICER (Mr. VOINOVICH). On this vote the yeas are 42, and the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

AMENDMENT NO. 770

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 770.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To accelerate the increase in exemption amount for estates and reduce the reduction in the 39.6 percent marginal tax rate)

Beginning on page 68, strike line 12 and all that follows through page 70, line 19, and insert the following:

(a) IN GENERAL.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking the table and inserting the following new table:

"In the case of estates of decedents dying during:	**The applicable exclusion amount is:**
2002 through 2010	$4,000,000.''.

(b) LIFETIME GIFT EXEMPTION INCREASED TO $1,000,000.—

(1) FOR PERIODS BEFORE ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by inserting ''(determined as if the applicable exclusion amount were $1,000,000)'' after ''calendar year''.

(2) FOR PERIODS AFTER ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax), as amended by paragraph (1), is amended to read as follows:

''(1) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2502(a)(2) if the amount with respect to which such tentative tax is to be computed were $1,000,000, reduced by''.

(c) GST EXEMPTION.—

(1) IN GENERAL.—Subsection (a) of 2631 (relating to GST exemption) is amended by striking ''of $1,000,000'' and inserting ''amount''.

(2) EXEMPTION AMOUNT.—Subsection (c) of section 2631 is amended to read as follows:

''(c) GST EXEMPTION AMOUNT.—For purposes of subsection (a), the GST exemption amount for any calendar year shall be equal to the applicable exclusion amount under section 2010(c) for such calendar year.''.

(d) REPEAL OF SPECIAL BENEFIT FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (10) of section 2031(c) is amended by inserting ''(as in effect on the day before the date of the enactment of this parenthetical)'' before the period.

(B) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001.

(2) SUBSECTION (b)(2).—The amendments made by subsection (b)(2) shall apply to gifts made after December 31, 2010.

(f) REVENUE OFFSET.—The reductions in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section as compared to the amendments made by section 521 of the Restoring Earnings To Lift Individuals and Empower Families (RELIEF) Act of 2001 as reported by the Finance Committee of the Senate on May 16, 2001.

Mr. LEVIN. Mr. President, this is similar to amendment No. 759 at the desk, but it has been redrafted to avoid the germaneness point of order which could have rested against it based on giving authority to the Secretary of the Treasury. It eliminates that authority. It just sets the rates.

What we do with this amendment is make the changes in the unified estate taxes immediate instead of waiting 10 years for that $4 million unified exemption, which is so important to making sure that small businesses are not caught by the estate tax. This amendment says we should do that now. We should bring forward these exemptions, these unified exemptions that are important to eliminate small businesses and farms from being caught in the estate tax. Ninety percent of the small businesses that would be caught by the estate tax will not be caught once we have a $4 million unified exemption. This brings forward that exemption and pays for it by eliminating the upper bracket reduction. A lot more people will be benefited—a lot more small businesses.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

The clerk will call the roll.

Mr. REID. Mr. President, unanimous consent for what?

I didn't hear the unanimous consent agreement.

The PRESIDING OFFICER. There was a quorum call requested by the Senator from Alaska.

Mr. REID. I don't understand.

Mr. KENNEDY. Was all the time used up, Mr. President? I thought there was time on each side. The time hasn't all been used up.

The PRESIDING OFFICER. The time has not been used up. That is why it required unanimous consent.

Mr. REID. I object.

Mr. MURKOWSKI. Mr. President, I believe the unanimous consent was granted by the Chair.

Mr. REID. You can't grant something if you can't hear him. Reserving the right to object, we have spent now, this afternoon, probably close to 2 hours in quorum calls. There is going to come a time shortly when we are going to be blamed. We haven't held anything up. We didn't suggest the quorum call and here we are again. I have no problem with a quorum being called, but we have 30-some amendments left to vote on and I want to make sure we can't be blamed for not moving the bill forward.

Mr. MURKOWSKI. Mr. President, I would like clarification. I believe I suggested the absence of a quorum. The President asked if there were any objections. I believe the quorum call was in order; is that correct?

The PRESIDING OFFICER. The Senator from Alaska is correct.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this amendment costs billions, and Senator LEVIN plans to pay for it by slashing any rate relief at the top rate. He proposes no estate tax and no capital gains tax on estates, and he pays for it with a denial of any tax break at all to the top rate.

This simply is not fair. This amendment will require a tax increase of billions of dollars, according to the Joint Tax Committee. It will increase taxes tens of thousands on small businessowners, and these folks throughout the country are the ones who create the jobs.

I urge everyone to vote against this amendment. Once again, I raise the point that this is probably the second, third, or fourth time we have voted on similar amendments. At some time, we ought to say enough is enough. I think now is time to say enough is enough.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Michigan.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—42

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Cleland	Hollings	Rockefeller
Clinton	Inouye	Sarbanes
Conrad	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kerry	Wellstone
Dayton	Leahy	Wyden

NAYS—57

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Chafee	Inhofe	Specter
Cochran	Jeffords	Stevens
Collins	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Torricelli
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—1

Kohl

The amendment (No. 770) was rejected.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 771

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 771.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make the maximum amount of the deduction for higher education expenses fully effective immediately, to repeal the termination of such deduction, and to provide an offset for revenue loss)

On page 314, after line 21, add the following:

SEC. ___. ACCELERATION OF FULL IMPLEMENTATION OF TUTITION DEDUCTION AND REPEAL OF TERMINATION.

(a) DEDUCTION FOR HIGHER EDUCATION EXPENSES.—

(1) MAXIMUM AMOUNT OF DEDUCTION.—Section 222(b)(2) (relating to applicable dollar amount), as added by section 431(a) of this Act, is amended to read as follows:

''(2) APPLICABLE DOLLAR LIMIT.—

''(A) IN GENERAL.—The applicable dollar limit shall be equal to—

''(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed $65,000 ($130,000 in the case of a joint return), $5,000,

''(ii) in the case of a taxpayer not described in clause (i) whose adjusted gross income for the taxable year does not exceed $80,000 ($160,000 in the case of a joint return), $2,000, and

''(iii) in the case of any other taxpayer, zero.

''(B) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after application of sections 86, 135, 137, 219, 221, and 469.''.

(2) REPEAL OF TERMINATION.—Section 222(e) (relating to termination), as added by section 431(a) of this Act, is repealed.

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

(c) REVENUE OFFSET.—The reductions in 2005 and 2007 in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

Mr. LEVIN. Mr. President, when one looks at the deduction for college tuition in the bill, one finds, at least to my amazement, that it does not get fully phased in until 2004 and then it sunsets; it gets wiped out in 2006.

We should do a lot better than that for this important deduction, and this amendment will provide the full deduction immediately and pays for it by using part of the top tax bracket reduction.

An awful lot of people will benefit from this amendment helping to get students through college by having a real college tuition deduction, not just rhetoric but real, and be available now and not sunsetted 2 years after it is fully phased in.

I ask that the Senator from New York be recognized, if I have any time on my minute.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this is an important amendment for those who care about paying for college.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHUMER. We should make it permanent, and I urge support of the amendment.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Michigan described his amendment. I am not going to go back through that. We have a very good package of educational assistance, tax incentives in our bill, of which the deduction of tuition is a major portion, and that major portion was put in to make this a more bipartisan bill, particularly under the leadership of Senator TORRICELLI.

What is wrong with this amendment is not that it does not do more but the fact that it increases billions of dollars for small business men and women. The revenue loss for the tuition deduction in our bill is $11 billion. We don't have this one scored, but this would be much higher.

Once again, I plead with people. We have a bipartisan bill. How many times do we have to defeat the same amendment? It has been 37 times now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HUTCHINSON). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to amendment No. 771.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I annouce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 44, nays 55, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—44

Akaka	Carnahan	Dayton
Bayh	Carper	Dodd
Biden	Cleland	Dorgan
Bingaman	Clinton	Durbin
Boxer	Conrad	Edwards
Byrd	Corzine	Feingold
Cantwell	Daschle	Graham

Harkin	Levin	Rockefeller
Hollings	Lieberman	Sarbanes
Inouye	Lincoln	Schumer
Johnson	Mikulski	Stabenow
Kennedy	Murray	Torricelli
Kerry	Nelson (FL)	Wellstone
Landrieu	Reed	Wyden
Leahy	Reid	

NAYS—55

Allard	Feinstein	Murkowski
Allen	Fitzgerald	Nelson (NE)
Baucus	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	
Enzi	Miller	

NOT VOTING—1

Kohl

The amendment (No. 771) was rejected.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I believe I have 1 minute. Is that correct?

The PRESIDING OFFICER. Is the Senator calling up an amendment?

AMENDMENT NO. 699

Mr. KENNEDY. Yes. I call up amendment No. 699.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 699.

Mr. KENNEDY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To condition the reductions in the 39.6 percent rate in 2002, 2005, and 2007 on the Federal Government funding certain increases in the maximum Federal Pell Grant amounts)

On page 9, between lines 14 and 15, insert:

''(4) REDUCTION IN TOP RATE CONTINGENT ON INCREASES IN FEDERAL PELL GRANT FUNDING.—Notwithstanding paragraph (2), the reductions in the 39.6 percent rate bracket which (without regard to this paragraph) would take effect for taxable years beginning in 2002, 2005, or 2007 shall not take effect at all unless the Secretary of Education certifies to the Secretary of the Treasury before November 1, 2001, November 1, 2004, or November 1, 2006, whichever is applicable, that during the fiscal year ending in 2001, or during each of the 2 fiscal years ending in 2003 and 2004 or 2005 and 2006, whichever is applicable, the Federal Government honored its commitment to fund the Federal Pell Grant program under subpart I of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) in an amount sufficient to increase the maximum Federal Pell Grant amounts awarded under such program to—

''(A) $4,250 for the 2002-2003 school year,

''(B) $4,650 for the 2003-2004 school year,

''(C) $5,050 for the 2004-2005 school year,

''(D) $5,450 for the 2005-2006 school year,

''(E) $5,850 for the 2006-2007 school year,

''(F) $6,250 for the 2007-2008 school year,

''(G) $6,650 for the 2008-2009 school year,

''(H) $7,050 for the 2009-2010 school year, and

''(I) $7,450 for the 2010-2011 school year.''.

Mr. KENNEDY. Mr. President, we hear a great deal during the discussion that we can afford the tax cut. We can also afford investments in education. This debate is really about choices. In this instance, we are offering the choice of getting the full funding of the Pell grants and deferring the reduction at the highest tax rate until we have the full funding.

This Nation made enormous progress through the GI bill. That was paid $8 paid back for every dollar that was put in. We made great progress in the cold war GI bill after the Korean war. In 1972, we enacted the Pell grant. The average Pell grant goes to a family with an income of $14,500. At the beginning of the Pell grant it paid for 80 percent of a public education and 40 percent of a private education. Today it is 40 percent of a public education and 18 percent of a private education. This will bring it up to 50 percent and 20 percent, in terms of public and private.

It is the best investment we can make in our Nation's future. I hope we will have support for expanding the Pell Grant Program.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Can we afford? Can we afford? How come we always hear the question, can we afford the tax cut? but we never hear, can you afford when it comes to spending money?

Mr. President, this may be a very well-intentioned amendment. It is very appropriate to bring up these educational issues. But it is not appropriate on a bipartisan tax reduction bill that this Senate requested in the budget resolution adopted 2 weeks ago. I urge my colleagues to reject this amendment.

The Kennedy amendment finances the increase in Pell grants by delaying marginal rate reductions if the Secretary of Education determines that Pell grants are not fully funded.

So this is not germane. I raise this point then: The amendment is not germane because it should not be on a reconciliation measure. The point of order against the amendment is under section 305(b)(2) of the Budget Act.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive applicable sections of the act on the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—45

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

NAYS—54

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 700

Mr. KENNEDY. Mr. President, I call up amendment No. 700, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 700.

Mr. KENNEDY. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To condition the reductions in the 39.6 percent rate in 2005 and 2007 on the Federal Government sufficiently funding Head Start to enable every eligible child access to such program)

On page 9, between lines 14 and 15, insert:

''(4) REDUCTION IN TOP RATE CONTINGENT ON HEAD START FUNDING.—Notwithstanding paragraph (2), the reductions in the 39.6 percent rate bracket which (without regard to this paragraph) would take effect for taxable years beginning in 2005 or 2007 shall not take effect at all unless the Secretary of Education certifies to the Secretary of the Treasury before November 1, 2004, or November 1, 2006, whichever is applicable, that during each of the 2 fiscal years ending in 2003 and 2004 or 2005 and 2006, whichever is applicable, the Federal Government honored its commitment to fund the Head Start Act in an amount sufficient to enable every eligible child access to such program.''.

Mr. KENNEDY. Mr. President, this is another amendment about priorities.

We are now funding half the eligible children for Head Start. This amendment says, after we fund the rest of the children who are eligible for the Head Start program, then the top rate can be lowered from 39.6 percent to 36 percent.

We have had three Carnegie Commission studies that talked about the importance of investing in Head Start. We had a report issued in January of last year by the National Science Foundation entitled ''From Neurons to Neighborhoods.'' It is an evaluation of all the Early Head Start Programs, saying this is the best investment that we can make in terms of helping children develop their brains.

In a few days, we are going to deal with the education bill. This may very well be more important to the children of this country than that legislation. Let's say we believe in investing in our future, investing in our children. Let's fund the Head Start Program.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. KYL. Mr. President, I am pleased to stand in for the chairman of the committee.

This amendment for full funding of Head Start has no place in this bill. The chairman has made the point over and over again that this bill is carefully constructed to include a variety of interests on both sides of the aisle. Each of these amendments is an attempt to upset that balance, in many cases, as in this one, with no estimate of the cost whatsoever. As a result, of course, a point of order lies, a point of order which I will make in just a moment.

It ought to be clear to everyone that this is boiling down to a question of who is for tax cuts and who isn't. Time after time, amendments are presented on that side of the aisle, and they are defeated by this side of the aisle. I think it ought to become clear to people after a while what is really occurring on. It is a stall tactic, and it really defines who is for tax cuts and who isn't.

Mr. President, because of the point I made, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of the Budget Act for the consideration of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—45

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

NAYS—54

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay in the Table was agreed to.

AMENDMENT NO. 698

Mr. DURBIN. Mr. President, Senator KENNEDY has authorized me to offer amendment No. 698.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. KENNEDY, proposes an amendment numbered 698.

Mr. DURBIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the Hope Scholarship Credit for all costs of attendance and to decrease the reduction in the 39.6 rate)

On page 9, strike the matter between lines 11 and 12, and insert:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2002, 2003, and 2004 ..	27%	30%	35%	39%
2005 and 2006	26%	29%	34%	38.2%
2007 and thereafter	25%	28%	33%	36.6%

On page 62, between lines 7 and 8, insert:

SEC. ___. HOPE SCHOLARSHIP CREDIT AVAILABLE FOR COSTS OF ATTENDANCE.

(a) IN GENERAL.—Section 25A(f)(1) is amended by adding at the end the following subparagraph:

''(D) COSTS OF ATTENDANCE.—For purposes of determining the amount of the Hope Scholarship Credit under subsection (b), such term shall include the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of enactment of this subparagraph) of the eligible student at an eligible educational institution.''

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

Mr. DURBIN. Mr. President, Members of the Senate, this is an amendment I am offering for Senator KENNEDY. The HOPE scholarship tax credit is valuable to students but not to those who are attending community colleges and public universities. It is limited to tuition and fees.

This amendment expands the reach of the HOPE scholarship tax credit to include other costs of college, such as transportation, daycare, cost of computers, books, and the like. This will mean the HOPE scholarship tax credit will help children of limited means from families who aren't wealthy receive a college education.

I hope Members of the Senate will consider a change in the upper tax rates to bring it to the same level as all other tax rate reductions, the benefits of that savings going to the kids in community colleges so they can qualify for the HOPE scholarship tax credit.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, compared to the bill that is before us, this amendment is a tax increase for a large segment of middle America. Families making $50,000, $60,000 a year would not see rates reduced.

Relative to the bill, the rates are effectively increased. We believe it would be a very expensive addition to a $30 billion package of education proposals already included in the bill. As a result, obviously, it not only upsets the bipartisan agreement that has been crafted between Senator BAUCUS and Senator GRASSLEY and the committee but in fact would represent a huge revenue loss —the estimate not being before us.

As I said before, what we are seeing is amendment after amendment being presented which do not pass but which clearly make the point that there are some folks here who are for tax cuts and some folks who are not for tax cuts.

This is the 43rd amendment on which we have voted. Of those presented today, almost half of them have not even been relevant. It is time to call this to a stop. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—43

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—56

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

NOT VOTING—1

Kohl

The amendment (No. 698) was rejected.

The PRESIDING OFFICER. The Senator from Minnesota.

MOTION TO RECOMMIT

(Purpose: To provide for a fully refundable HOPE education tax credit)

Mr. WELLSTONE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] moves to recommit H.R. 1836 to the Finance Committee, with instructions that the Committee on Finance report the bill to the Senate within three days, with the following amendments that:

Provide a fully refundable HOPE tax credit beginning in 2002; and

Strike the reductions in the 39.6% bracket.

Mr. WELLSTONE. Mr. President, this cuts the tax cut from the top .7 percent and instead puts the money into the HOPE Scholarship Program which would make it refundable. It would make a refundable tax credit, which means your community college students, who are about the hardest working group of students one will ever find—many are going back to school; many of them are men and women in their thirties and forties with children—would then be able to afford this.

Right now, if their income is below $26,000, $27,000 a year, they do not get any benefit unless it is refundable.

We could not do anything more important for higher education, especially if you care about the working class, these community college students. I hope there will be great support for this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the Senator from Minnesota has well described his amendment. It is very similar to the last amendment, but this is a motion to recommit. There is no estimate of the revenue loss of the proposal, though it will be huge.

The bill already, as we all know, has a $30 billion package of education tax incentives. Given the amount of money available for the various pieces of relief within the bill, we think that is quite generous.

The proposal, obviously, will raise the taxes of individuals and small businesses by the billions that would be necessary to pay for it.

It is almost 8:30 p.m. This is the third day we have been taking up amendments. We have now considered 44. This will be 45. Almost half of them today have not been relevant. Why do we keep having the same amendments over and over? This is virtually the same amendment as the last one.

I appreciate those on both sides of the aisle who have supported the committee bill. It is important we continue to do that. This all boils down to who supports tax relief and who does not. If you support tax relief, vote no on this crippling proposal.

Mr. WELLSTONE. Mr. President, I ask for the yeas and the nays, and I say to colleagues, all this does is cut the tax cut for the top .7 percent. I do not know where my colleague gets these figures. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—39

Akaka	Corzine	Harkin
Bayh	Daschle	Hollings
Biden	Dayton	Inouye
Boxer	Dodd	Johnson
Byrd	Dorgan	Kennedy
Cantwell	Durbin	Kerry
Carnahan	Edwards	Landrieu
Clinton	Feingold	Leahy
Conrad	Graham	Levin
Lieberman	Reid	Stabenow
Mikulski	Rockefeller	Torricelli
Murray	Sarbanes	Wellstone
Reed	Schumer	Wyden

NAYS—60

Allard	Ensign	McConnell
Allen	Enzi	Miller
Baucus	Feinstein	Murkowski
Bennett	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cleland	Inhofe	Specter
Cochran	Jeffords	Stevens
Collins	Kyl	Thomas
Craig	Lincoln	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner

NOT VOTING—1

Kohl

The motion was rejected.

Mr. LOTT. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 730

Mr. HARKIN. Mr. President, on behalf of myself and Senator JOHNSON, I CALL UP AMENDMENT NO. 730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. JOHNSON, proposes an amendment numbered 730.

Mr. HARKIN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to adjust the income tax rates and to provide a credit to teachers and nurses for higher education loans)

At the end of subtitle D of title IV, add the following:

SEC. ___. CREDIT FOR CERTAIN HIGHER EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 432, is amended by inserting after section 25B the following new section:

"SEC. 25C. CERTAIN HIGHER EDUCATION LOANS.

''(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest and principle paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a qualified individual shall not exceed $2,000.

''(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

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

''(1) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(2) NURSE.—The term 'nurse' means—

''(A) an individual who is—

''(i) licensed or certified by a State to provide nursing or nursing-related services, and

''(ii) employed to perform such services on a full-time basis for at least 6 months in the taxable year in which the credit described in subsection (a) is claimed, or

''(B) any other licensed or certified health professional practicing in a health profession shortage area, as defined in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)).

''(3) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(e)(1).

''(4) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means a teacher or a nurse.

''(5) TEACHER.—The term 'teacher' means—

''(A) a certified individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in any State, Federal, or tribally licensed elementary or secondary school on a full-time basis for an academic year ending during a taxable year, or

''(B) a head start teacher in a licensed head start program recognized by the Secretary of Health and Human Services.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section if any amount of interest or principle on a qualified education loan is taken into account for any deduction or credit under any other provision of this chapter for the taxable year.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Certain higher education loans.''.

(c) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made under subsection (a) and (b) shall apply to any qualified education loan (as defined in section 25C(d)(3) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after December 31, 2001, but only with respect to any loan interest or principle payment due in taxable years beginning after December 31, 2001.

Mr. HARKIN. Mr. President, the Health Committee heard testimony last week by 2010 there will be a shortage of 725,000 nurses. This will grow to 1.2 million nurses by 2020 as the baby boom generation retires and needs more care.

Many other crucial professions are also in short supply. The number of unfilled pharmacist positions in community practice nationally rose from 2,700 vacancies in February of 1998 to over 7,000 by February of 2000.

Relative to education, over the next 10 years we must hire 2.2 million new teachers to replace those who are retiring or leaving the classroom.

My amendment will go a long way to improving the supply of teachers, nurses, and other health professionals. It would provide a 50-percent tax credit of up to $2,000 a year for the cost of repaying educational loans for nurses, teachers, and other health professionals who serve in federally designated health professional shortage areas.

It would be paid for by eliminating the huge tax break for the wealthiest of Americans provided in this bill. It would strike the reduction in the top rate. Again, that is precisely what this amendment does.

I ask unanimous consent to have printed in the RECORD a letter from the NEA.

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

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, May 21, 2001.

Senator HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for your amendment to the tax bill that would provide a tax credit to offset the costs of teachers' student loan payments.

As you know, providing every child the opportunity to excel requires ensuring a highly qualified teacher in every classroom. To meet this goal, America must meet the challenges posed by record public school enrollments, the projected retirements of thousands of veteran teachers, and critical efforts to reduce class sizes. Given these favors, public schools will need to hire an estimated 2.2 million new teachers by 2009.

Despite these urgent needs, recruitment of high-quality teachers remains a significant challenge—one exacerbated by low salaries. A recent NEA report found that during the decade from 1989–90 to 1999–2000, average salaries for public school teachers increased by less than one percent, in constant dollars. Often, therefore, talented individuals facing high student loan costs simply cannot afford to enter or remain in the teaching profession.

By providing a tax credit to offset student loan payments, your amendment will help attract and retain high-quality teachers. We thank you for your leadership in addressing this important issue.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it is now 8:45. I believe this will be the 46th amendment we will have considered. This amendment also deals with the subject that about half of the recent amendments have dealt with—education—which I have already discussed we have done a lot about in the bill already.

There is a point at which I think our colleagues are going to have to conclude that the continued offering of these amendments over and over and over again is for the purpose of dragging this out and preventing the Senate from passing an important bill for tax relief for the American people. It also depends upon whether you are for tax relief or not. For those who continue to offer these amendments, it is apparent that they are not for the bill, they are not going to support the bill, they continue to try to drag this out so we won't complete this bill before the Memorial Day recess.

The amendment is not germane to the provisions of the reconciliation measure, and therefore I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. HARKIN. Pursuant to section 904 of the Congressional Budget Act, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ENZI). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—43

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—56

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the next amendment in order will be that of the Senator from North Dakota, Mr. CONRAD, the ranking member on the Budget Committee.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 781

Mr. CONRAD. Mr. President, this amendment improves our debt reduction by ending the repeal of the estate tax. The estate tax is ended just before we begin the second decade, right at the time the baby boomers start to retire and the cost of this tax bill then explodes to about $4 trillion.

My amendment is simple. It continues all of the provisions to increase the unified credit so that a couple could pass $8 million with no estate tax.

In addition, we preserve stepped up basis so that you pay future taxes on the basis of the value of the property when you inherit it, not on the basis of what your grandfather paid or what your father paid.

I believe this is a sound amendment and one that deserves the support of our colleagues.

The PRESIDING OFFICER. The Senator's time has expired.

Is the Senator going to send up the amendment?

Mr. CONRAD. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 781.

The amendment is as follows:

(Purpose: to reduce debt by eliminating the repeal of the estate tax)

Strike the following sections of the bill: Sections 501, 541, and 542.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. KYL. Mr. President, it is a bit confusing when these amendments are taken out of order. At the moment, if I could ask for my colleagues' indulgence, we do not have a copy of this amendment. We may have to get it from the sponsor of the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KYL. Mr. President, it appears that we have not been given this amendment. I know that my colleagues on the other side have made it clear that it was their intent that we receive all copies of all amendments prior to the time of their presentation. As of right now, in any event, it does not appear we have this amendment.

I would ask for my colleagues' indulgence for a moment. If the Senator from North Dakota wishes to offer the amendment, then we are going to have to have an opportunity to review it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator's time has expired.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent to make a statement for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to publicly thank my great friend and long-time companion, Senator INOUYE, for his kindness in pairing with me on two votes during the last 2 days. I had made a commitment to my granddaughter to be present at her graduation from high school, and I decided to keep that commitment. But we knew there would be close votes. I talked to my good friend, and he gave me this commitment he would pair on votes on which my absence might make a difference.

There are few friendships in this world that are stronger than my love for my great friend from Hawaii, a committed and dedicated American, and one who has been recognized by our country for his heroism at war. But he showed last night, once again, that he is a true friend as far as I am concerned.

I publicly thank him for that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Alaska is certainly one to talk about friendship. I say that very seriously. When I was a Member of the House of Representatives, a man by the name of Alan Bible, who was 20 years a Senator here, died. And, of course, the procedure was that an airplane was supplied to Members of Congress to go to Nevada for the funeral.

The only person on that airplane, other than me, was Senator Ted Stevens. He was there as a result of his friendship with Alan Bible. Particularly, one vote that Senator STEVENS remembers was very hard for Alan Bible to cast. As a result of that, Senator STEVENS traveled 1 day 6,000 miles to repay what he felt was a debt he owed to a dead man. So Senator STEVENS is gracious in extending compliments to Senator INOUYE, which Senator INOUYE deserves. But Senator STEVENS, in my book, is someone who knows what friendship means.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, there is an amendment pending. I believe that we have a copy of it now. We should be ready to go to the vote momentarily. It would be our intent, on both sides of the aisle, to make this the last vote tonight and resume voting again in the morning at 9:30, at which point I am hoping that Senator DASCHLE and I can work together and get an agreement as to how we would proceed in the morning and as to how we would complete action on this legislation.

I am not going to propound a unanimous consent request now, but we want Senators to know this will be the last vote of the night. We will be back at 9:30. Our intent is to work together to find a way to successfully complete action on this legislation.

Mr. BYRD. May we have order.

Mr. LOTT. I would be glad to yield to Senator BYRD or to Senator REID.

Mr. BYRD. May we have order.

The PRESIDING OFFICER. The Senate will please be in order.

Cease all conversations.

Mr. REID. I say to the majority leader——

The PRESIDING OFFICER. The Senate is not in order yet.

Mr. REID. I say to the majority leader, in the morning at 9:30 we would intend to vote first on amendment No. 780 offered by Senator DURBIN.

Mr. LOTT. I believe we have other amendments that would be in order. I believe Senator SNOWE has indicated that she will have one in the morning.

Mr. REID. I believe it is your turn.

Mr. LOTT. If we do not have one ready to go at 9:30, we would go to the Durbin amendment, and then one—have we offered one today?

Mr. REID. Three days ago.

Mr. LOTT. We might want to have one every other day until we can complete action.

I yield the floor.

Mr. KYL. Mr. President, I would like to take the minute now in opposition to the amendment. We have had an opportunity to review it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Thank you.

Mr. President, this amendment uses repeal of the death tax to pay down the debt further. We already defeated amendments which would help with HOPE scholarships and Head Start and a variety of other things. This now would use it to pay down the debt. Obviously, it is something we have considered and rejected in the past.

I urge my colleagues to reject it again. This would make, I believe, something like the 46th amendment. There does not appear to be anything new under the Sun here, and, as a result, I hope my colleagues will join me in defeating the amendment.

The PRESIDING OFFICER. Does the Senator yield back time?

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to Conrad amendment No. 781.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—42

Akaka	Daschle	Kerry
Baucus	Dayton	Landrieu
Biden	Dodd	Leahy
Bingaman	Dorgan	Levin
Boxer	Durbin	Lieberman
Breaux	Edwards	Mikulski
Byrd	Feingold	Reed
Cantwell	Graham	Reid
Carnahan	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Stabenow
Conrad	Johnson	Torricelli
Corzine	Kennedy	Wellstone

NAYS—57

Allard	Fitzgerald	Murray
Allen	Frist	Nelson (FL)
Bayh	Gramm	Nelson (NE)
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Cleland	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Kyl	Specter
Craig	Lincoln	Stevens
Crapo	Lott	Thomas
DeWine	Lugar	Thompson
Domenici	McCain	Thurmond
Ensign	McConnell	Voinovich
Enzi	Miller	Warner
Feinstein	Murkowski	Wyden

NOT VOTING—1

Kohl

The amendment (No. 781) was rejected.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BALANCE OF POWER

Mr. BYRD. Mr. President, during the course of this week's debate, several amendments have been offered that would direct the Treasury Secretary to adjust marginal tax rates in a way that would provide the necessary savings to fund particular tax benefits.

I opposed these amendments because the U.S. Constitution explicitly vests that power in the legislative branch. It is the responsibility of the Congress—the people's representatives—to determine the appropriate level of taxation and, consequently, the proper marginal rates. By delegating such duties to the Treasury Secretary, the Congress would continue a dangerous pattern of recent years of ceding congressional responsibilities to the executive branch. Placing these powers in the legislative branch was part of the Framers' carefully crafted constitutional design, comprised of an intricate system of checks and balances and separation of powers.

I hope that the Senate will continue to protect the balance of powers by rejecting any amendment that would attempt to transfer its Constitutional responsibilities to the executive.

AMENDMENT NO. 695

Mr. NELSON of Florida. Mr. President, I rise to speak of my opposition to the amendment offered yesterday by Senator DODD, which would replace the estate tax repeal in order to partially pay for nontransportation infrastructure programs and save for debt reduction. I strongly support responsible tax cuts and a full repeal of the estate tax.

Even though paying down the national debt is one of my top priorities, I could not support an amendment that does not reflect my position of support for total repeal of the estate tax. I opposed this amendment because the revenue offset did not meet this criterion.

VOTE ON AMENDMENT NO. 747

Mr. LEAHY. Mr. President, I was absent for rollcall vote No. 143. If I had been present, I would have voted in favor of the motion to waive the Budget Act on amendment No. 747 offered by Senator CARPER.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. RELATIONS WITH TAIWAN

Mr. BAUCUS. Mr. President, last night, I spoke by phone to Taiwan President Chen Shui-bian shortly after he arrived in New York on a so-called ''transit stop'' on his way to Latin America. I told him how pleased I was the he was able to make this visit and that I regretted that I could not travel to New York to meet with him personally because of the tax bill now on the Senate floor.

I strongly opposed the restrictions placed on President Chen when he passed through Los Angeles last summer and was not permitted to meet with members of Congress. That is no way to treat the democratically elected President of Taiwan.

We are in a different era than in the 1970s when Richard Nixon opened up China, the three Communiques were produced, and the Taiwan Relations Act was passed.

On the one hand, we still honor the one China policy. The American message to Beijing and Taipei continues to be that they must negotiate together to resolve their differences by peaceful means. We are determined that neither side should be able to take unilateral steps that would fundamentally change the situation.

But, on the other hand, we need to understand that Taiwan now has a government that is as accountable to its people as is our own government. Although Taiwan had an authoritarian system until the late 1980s, today it is an active democracy based on a market economy. With U.S. support, Taiwan made this transformation into a free market democracy. We should be looking at Taiwan as one of the great success stories of America's foreign policy.

And that means we need to treat Taiwan differently than in the past. It is the 12th largest economy in the world. Taiwan is our 7th largest export market. In fact, we sold more goods and services to Taiwan last year than we did to China.

Once Taiwan joins the World Trade Organization, and I hope it is soon, I believe that we should begin work on a free trade agreement with Taiwan. I will shortly introduce legislation to provide fast track negotiating authority for such a negotiation.

Taiwan has taken many measures to liberalize its economy in recent years, especially in response to negotiations with the United States. While they await formally accession to the WTO, they are working hard to bring their laws and regulations into compliance with WTO requirements. They still have a lot of work to do to complete their liberalization efforts. Sectors such as telecommunications, financial services, and electronic commerce need to be freed up significantly. Protection of intellectual property needs to be improved. But a free trade agreement would help lock in the important economic changes already made, and it would also encourage continuing liberalization.

A free trade agreement with Taiwan would provide an even better market for American goods, services, and agricultural exports. It would reward Taiwan for the dramatic political and economic progress it has made. And it would benefit our economy, enhance our security, and promote global growth.

China would probably object to a US-Taiwan free trade agreement. But there would be no legal or diplomatic basis for such a protest. Taiwan is joining the WTO as a ''separate customs territory'' and will have all the rights and obligations of every other WTO member, including Beijing. We have been negotiating with Taiwan for years on market access, trade, and regulatory issues. Taiwan is a member of APEC, the Asia-Pacific Economic Cooperation forum. We must determine what will be U.S. policy toward Taiwan.

I recognize that this is an unusual proposal. I don't expect negotiations on a free trade agreement to start right away. But it is a vision toward which we should all work.

To conclude, I hope that President Chen has a useful stay in New York. I also hope that we will see a meeting between President Chen and Chinese President Jiang Zemin at the APEC summit in Shanghai in October. The dialogue that should emerge from such a meeting could help ensure peace across the Taiwan Strait.

ECONOMIC ASSISTANCE FOR EAST TIMOR

Mr. LEAHY. Mr. President, last week, the Standard Times of New Bedford, MA, published an op-ed piece by Senator KENNEDY on the situation in East Timor, in which he discussed the legislation on East Timor that he introduced with Senator CHAFEE, which is also cosponsored by myself and Senators FEINGOLD, HARKIN, KERRY, JEFFORDS, and REED. This legislation recently passed the House of Representatives as part of the Foreign Relations Authorization Act.

Senator KENNEDY's legislation would provide additional economic assistance for East Timor, which is struggling to overcome the violence and destruction perpetrated by Indonesian militias, with the support of the Indonesian military, after the vote for independence in August 1999. It would also provide for scholarships for East Timorese students, funding for the Peace Corps to start a program there, and other initiatives.

This legislation outlines a comprehensive approach to a new, positive relationship between the United States and East Timor, including the establishment of full diplomatic relations as soon as independence takes place.

As one who, like Senator KENNEDY, has admired the courage and determination of the East Timorese people and their capable leaders, Xanana Gusmao and Jose Ramos-Horta, I commend him for this legislation and ask unanimous consent that his op-ed piece be printed in the RECORD.

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

[From the New Bedford, MA Standard Times, May 16, 2001]

PREPARE NOW FOR THE NEW EAST TIMOR

Two leaders of the East Timor independence movement are in Washington, D.C., this week for the first time since the people of East Timor voted overwhelmingly for independence in August 1999. Nobel Prize winner Jose Ramos-Horin spent 24 years in exile rallying support for East Timor's independence and will be foreign minister in the new government. Xanana Gusmao led the domestic opposition and will be a prominent figure in an independent East Timor. The goal of their visit is to obtain the support of the Bush Administration and Congress for their new country, and they deserve to receive it.

East Timor's road to independence has been long and violent. Portugal ruled East Timor for 550 years before pulling out in August 1975. East Timor was independent for four months before it was invaded by Indonesia in December that year. The U.N. General Assembly and Security Council strongly condemned the invasion, and never recognized Indonesian sovereignty over East Timor.

After two decades of unrest, former Indonesian President B. J. Habibie finally agreed to a referendum in January 1999. In August that year, the people of East Timor voted overwhelmingly in favor of independence from Indonesia, and they did so at great personal risk. Before, during and after the vote, the Indonesian military and anti-independence militia groups killed more than a thousand people and displaced thousands more, hoping to intimidate the independence movement.

Although the militias succeeded in destroying 70 percent of East Timor's infrastructure, they failed to derail East Timor's desire for freedom.

On August 30 this year, looking to America as an example, East Timor will elect a constituent assembly to decide which form of democratic government to adopt.

It is a process that reminds us of our own Constitutional Convention and would make our founders proud. A few months after that, East Timor, which is currently governed by the United Nations, will formally declare its independence. After years of hardship, violence and death, a new democracy will take its rightful place in the world. The new nation is a great success story, but it is far from complete.

East Timor is rebuilding itself from ashes following 24 years of Indonesian rule, and it needs international assistance. It remains one of the poorest countries in Asia. The annual per capita gross national product is $340. As many as 100,000 East Timorese refugees languish in militia-controlled refugee camps in West Timor, which is still part of Indonesia and where there has been a sharply reduced international presence since militias murdered three U.N. workers last September.

In the aftermath of the violence in East Timor, the United States has provided important humanitarian aid and assistance for nation-building. But our assistance has been provided on an ad hoc basis. We have made no commitment to a longterm political investment in a newly independent East Timor, and we should do so.

We should leave no doubt in the minds of any government officials in Indonesia that the United States will recognize and support the new nation of East Timor.

To advance this objective, I, along with Sen. Chafee, have introduced legislation in the Senate to facilitate East Timor's transition to independence.

Reps. Tom Lantos and Chris Smith have introduced similar legislation in the House of Representatives. Its purpose is to lay the groundwork for establishing a strong relationship with East Timor, including a bilateral and multilateral assistance program. Our legislation encourages President Bush, the Overseas Private Investment Corporation, the Trade and Development Agency and other U.S. agencies to put in place now the tools and programs necessary to create a reliable trade and investment relationship with East Timor.

It provides a three-year commitment of $30 million in U.S. assistance, including $2 million for a Peace Corps presence and $1 million for a scholarship fund for East Timorese students to study in the United States, and supports economic assistance through international financial institutions.

To help professionalize the army, it authorizes the president to provide excess defense materials and international military education and training, if the president certifies that doing so is in the interest of the United States and will help promote human rights in East Timor and the professionalization of East Timor's armed forces. Our bill also supports efforts to ensure justice and accountability for past atrocities in East Timor.

The bill specifically calls on the State Department to establish diplomatic relations with East Timor as soon as independence takes place. It took President Truman 10 minutes to establish diplomatic relations with Israel in 1948. President Bush should be able to do the same with East Timor in 2001.

The people of East Timor have chosen democracy, and the United States has a golden opportunity to help them create their new democracy. We must prepare for that day now. The great faith in the democratic process they showed by voting for independence under the barrel of a gun must not go unrewarded.

We should put U.S. governmental programs and resources in place now to prepare for the reality of an independent East Timor. If we wait until East Timor declares its independence before we do the preliminary work, we will lose vital time and do a disservice to both the United States and East Timor. We must not miss this unique opportunity to help.

MIDDLE EAST VIOLENCE

Mr. SMITH of New Hampshire. Mr. President, on May 18th, yet another grave terrorist attack occurred in Netanya, the fifth such attack this year. Six Israelis were killed and over one hundred wounded in the bombing.

The target of the attack was innocent civilians, targeted solely because they were Israelis. The recent bludgeoning to death of 14-year old Jewish boys in a cave demonstrates a new level of barbarism and inhumanity.

The Palestinian Authority is obligated, according to agreements it concluded with the State of Israel, to prevent terrorism and to cease incitement in the areas under its jurisdiction.

Regrettably, the Palestinian Authority has abandoned its obligations and is committing acts of terrorism and inciting violence against Israelis, both in Palestinian controlled media and in the curriculum taught to its school-age children. With such hatred and venom spewed by Palestinian Government organs, it is hard to imagine there is any true desire for peace, rather, there appears to be a deliberate attempt to destroy any foundation for peace that is necessary among the Palestinian people.

The Israeli Government has made a renewal of peace negotiations with the Palestinians its foremost goal. But negotiations cannot take place until there is a cessation of the violence.

The Government of Israel has repeated its desire to move forward in accordance with the four phases detailed in the recent report of the Mitchell Fact Finding Committee:

A. A complete cessation of violence; B. A substantial cooling-off period, accompanied by confidence building measures—together with proof on the part of the PA that it intends to maintain the calm (arresting terrorists, ending incitement, etc.); C. The implementation of signed agreements; D. The conduct of negotiations on all outstanding issues.

As Secretary Powell and the U.S. State Department prepare to re-enter the difficult world of Israeli-Palestinian negotiations, we can make a few observations about the recent brutality and violence by the PA.

First, the attack puts the lie to the claim that Palestinian violence is directed against so-called Israeli ''occupation.''

Second, we can question the effectiveness of peace negotiations with a group that embraces terrorism—and which belies the U.S. policy, that is, policy for the United States, that we do not negotiate with terrorists, while the Palestinian Authority was removed from the annual U.S. list of terrorists, it continues to commit acts of terrorism and we have helped to reinvent the PA as a ''negotiating partner'' for the Israelis. This looks hypocritical, dishonest and unrealistic.

Secretary Powell and the Department of State have an enormous undertaking in trying to find common ground between Israelis and Palestinians. The conflict appears intractable, and peace, despite decades of efforts, remains elusive. Yet we can only keep trying—trying to stop the bloodshed that seems synonymous with the Middle East and trying to seek stability in such an important and strategic part of the world.

THE SUPREME COURT'S DECISION IN ALEXANDER v. SANDOVAL

Mr. LEAHY. Mr. President, there are a great many important policy issues that divide Democrats and Republicans. When we find certain common sense principles that we agree on, however, we should seize the opportunity and act on them.

I believe that we have such an opportunity today. On April 24, 2001, the Supreme Court issued its latest in the never-ending sequence of 5-to-4 ''State's rights'' decisions, Alexander v. Sandoval. I rise to urge my colleagues to reaffirm our shared values by passing legislation to reverse the Court's decision in this case. By doing so, we can reinstate what was always Congress's intent, and reaffirm our nation's commitment to civil rights for all Americans. Let me explain.

Let's start with the principle of cooperative federalism. Every year, we in Congress send billions of Federal taxpayer dollars to the States to help fund education systems, health care, motor vehicle departments, law enforcement and other government services that every American is entitled to enjoy, no matter which State he or she lives in. That is the essence of federalism: helping to fund the States to perform government functions that are best performed at the local level. It is not Republican, and it is not Democratic; it is common sense.

The Federal Government and Federal taxpayers count on the States to use those Federal funds in a lawful manner, and most everyone would agree that the States should be accountable for doing so. President Bush has made accountability the central guiding principle of his education proposals. We have some immensely important differences of view on how to achieve accountability. But we should not lose sight of what unites us.

Republicans believe in accountability, and so do Democrats. We here in Washington owe the American people a duty, when we send their tax dollars to State and local authorities, to ensure that the people get a chance to hold those authorities accountable for using their money for the public good, for the benefit of all the people, and in accordance with the law of the land. That is not politics; it is common sense.

What has all this got to do with the Supreme Court? Well, 37-years ago, Congress enacted perhaps the most important piece of legislation of the post-war era, the Civil Rights Act of 1964. Title VI of the Civil Rights Act is an accountability provision pure and simple. It prohibits discrimination on the basis of race, color, or national origin, in any program or activity that receives Federal funds.

The Congress that passed the Civil Rights Act was committed to full and strong enforcement of civil rights. It recognized that discrimination comes in many forms. Governmental practices may be intentionally discriminatory or, more commonly, they may be discriminatory in their effect, because they have a disparate or discriminatory impact on minorities. To catch this more subtle but no less harmful form of discrimination, Congress authorized the Federal agencies that were responsible for awarding federal grants and administering federal contracts to adopt regulations prohibiting Federal grantees and contractees from adopting policies that have the effect of discriminating.

There has never been any serious question about Congress's intent in this matter. Before Sandoval, the Federal Courts of Appeals had uniformly affirmed the right of private individuals to bring civil suits to enforce the disparate-impact regulations promulgated under Title VI. The Supreme Court itself, in a 1979 case called Cannon v. University of Chicago, had concluded that Title VI authorized an implied right of action for victims of race, color, or national origin discrimination. And as Justice Stevens noted in his dissenting opinion in Sandoval, the plaintiff in Cannon had stated a disparate-impact claim, not a claim of intentional discrimination.

I will not attempt in these brief remarks to go over all the reasons why Sandoval was incorrectly decided as a matter of Supreme Court precedent. Justice Stevens does an excellent job in his dissent of demonstrating how the activist conservatives on the Court rejected decades of settled laws.

I will say this: The holding in Sandoval makes no sense as a matter of national policy. The lower courts in Sandoval found that the defendant, the Alabama Department of Public Safety, was engaged in a discriminatory practice in violation of Federal regulations. The Supreme Court did not challenge that finding, and also accepted that the regulations at issue were valid. Yet the Court's conservative majority held that the victims of the discrimination had no right to sue to enforce the Federal regulations. You do not have to be liberal, and you do not have to be conservative, to be troubled by the notion that a State can engage in unlawful discrimination and yet not be accountable in any court.

The good news is that the Sandoval holding is based on statutory interpretation and not constitutional law. The Congress is therefore free to overturn it, and we should do so at the very first opportunity. By doing so, we will fully preserve what I have called cooperative federalism. We will continue to provide funding assistance to the States. At the same time, we will prove that we are serious about the right of the American people to hold their government accountable in the most basic sense, accountable for obeying the law. And we will prove that we are as serious about the civil rights of minorities as the groundbreaking Congress that passed the Civil Rights Act of 1964.

Fixing what the Court has broken should be a bipartisan undertaking. This is not about being a Republican or a Democrat; it is about reaffirming the will of the people as expressed by the Congress, reaffirming that the American people are entitled to have a government that is accountable, and reaffirming that in America, discrimination is not acceptable, whether it is done openly and crassly, or more invidiously and subtly. The unfair effects are the same and deserve redress.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a heinous crime that occurred April 25, 2000 in Germantown, MD. According to the victim, she and her partner and their 11-year-old daughter have been the victims of repeated anti-gay slurs. The victims have had rocks and other items thrown at their home because they are gay and some neighbors ''wanted us out of the neighborhood.'' The incident in question occurred after a verbal altercation between the victim's child and the perpetrator's child, culminating in the victim's attack by the perpetrator. When police arrived on the scene, the victim was lying on the ground; her hand was bleeding; she had been kicked

repeatedly in the head by the perpetrator and his 12-year-old son (while the son was allegedly yelling, ''I'm going to kill you, dyke b---h.''); her face was swollen; she had footprints on her shirt; and marks on her neck and chest which required overnight hospitalization. Despite this, the police did not handle the incident as a hate crime and said that it was against their regulations to arrest the perpetrator because they had not witnessed the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

KIRK O'DONNELL MEMORIAL LECTURE

Mr. HOLLINGS. Mr. President, I had the pleasure of attending the Kirk O'Donnell Memorial Lecture on American Politics last month to hear our distinguished former colleague, Daniel Patrick Moynihan. No one worked harder on public policy or served with a more distinguished record than he. His lecture offered an enlightening perspective on current discussions about Social Security and I ask unanimous consent that it be reprinted in the RECORD.

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

A THRIFT SAVINGS COMPONENT FOR SOCIAL SECURITY: BIPARTISANSHIP BECKONS

(By Daniel Patrick Moynihan)

I have entitled this lecture ''A Thrift Savings Component for Social Security: Bipartisanship Beckons.'' I have done so not without a measure of unease. For it was our own Kirk O'Donnell who famously declared Social Security to be ''the third rail of politics.'' But then Kirk was ever one to take a dare. And I would note that the third rail was first installed on the I.R.T. subway in Manhattan, the Big Dig of its day, which Charles Francis Murphy had built as a favor for a friend.

But allow me a brief explanation for such reckless abandon at a time in life when serenity ought properly be one's object.

The end of the cold war did it!

On December 7, 1988 Mikhail Gorbachev went before the General Assembly of the United Nations to declare in effect that the Soviet ''experiment'' was over. The French Revolution of 1789, he said, and the Russian Revolution of 1917 had had a powerful impact ''on the very nature of the historic process.'' But, ''today a new world is emerging and we must look for new ways.'' That was then, now was different. ''This new stage,'' he continued, ''requires the freeing of international relations from ideology.'' The world should seek ''unity through diversity.'' Then this: ''We in no way aspire to be the bearer of the ultimate truth.''

But of course since 1917 and before the essence of Marxist-Leninism had been the claim to be the bearers of ''the ultimate truth.'' No longer; it was all over. And indeed in short order the Soviet Union itself would vanish.

For someone of the generation that had been caught up in the second world war and the cold war that followed, Gorbachev's address could fairly be described as one of the extraordinary events of the twentieth century. All but unimaginable at mid-century. I had been in the Navy toward the end of World War II and was briefly called back during the Korean War. I was in London at the time. Early one morning we mustered in Grosvenor Square and by late afternoon were crossing Holland on our way to the naval base at Bremerhaven. Partly, well mostly, for show, I had brought along a copy of Hannah Arendt's newly published The Origins of Totalitarianism. I opened to the first page, read the first paragraph to myself, then read it aloud.

''Two world wars in one generation, separated by an uninterrupted chain of local wars and revolutions, followed by no peace for the victor have ended in the anticipation of a third World War between the two remaining world powers. This moment of anticipation is like the calm that settles after all hopes have died.''

Silence. At length the senior officer present allowed: ''There must be a bar car somewhere on this train.''

That war never came and soon there were signs of instability in the Soviet empire. In 1975 I returned from a spell in India convinced that the Czarist/Soviet imperium would soon break up, as had all the other European dominions following that Second World War. Shortly thereafter I was at the United Nations when the Soviet Under Secretary for Security Council Affairs defected to the United States. The diplomat, a man of great intelligence, had simply ceased to believe any of the things he was required to say. Doctrine was receding even as ethnicity was rising.

Then there was Moscow in 1987. I was there on a mission of possible importance. Was treated with great courtesy, including a tour of Lenin's apartment in the Kremlin. Behind his desk was a small bookcase, with two shelves of French language and two of English language authors. They could well have been Lenin's or possibly were put there for the delectation of visiting intellectuals in the 1930s. No matter. I found that I had personally met three of the writers. Next day I called on Boris Yeltsin, then Mayor of Moscow. Our excellent ambassador introduced me, recounting the authors I had recognized. It was clear Yeltsin had never heard of any of them. Could care less. After a pause he looked at me, and through a translator declared, ''I know who you are and where you come from. And what I want to know is how the hell am I supposed to run Moscow with 1929 rent controls?''

Housing. Fairly basic, and in desperate short supply. At the other end of the consumer spectrum, as we were leaving what was still Leningrad, I told our KGB handler that some constituents in New York had given me the names of relatives, hoping I might call them. But it seemed there was no telephone book in our room. Perhaps he could find one for me. He went off; came back. There was no telephone book in Leningrad. None that is available to the public.

In the years preceding and the years following this brief adventure it appeared to me that ethnicity was the central conceptual flaw of Marxism-Leninism. The workers of the world were not going to unite. The Red Flag, red being the color of the blood of all mankind, was not going to fly atop the capitols of all the world. I continue to think that, and to suppose that the 21st century will see even more ethnic division. But I have added to my views a further component to the failure of communism which is nothing more mundane than consumerism.

It serves to recall the fixed belief of the early Marxists that free markets—capitalism in that ugly French term—would bring about a steady lowering of living standards, from which a politicized proletariat would rise in revolt. In John Kenneth Galbraith's phrase, ''The prospect of the progressive immiseration of the masses, worsening crises and . . . bloody revolution.'' But as a new generation of Soviet leaders ventured abroad, they came to realize that nothing of the sort was happening in the West. While at home . . . In the end they simply gave up.

Let us see if these two categories can be related in terms of our future as the one remaining world power, to use the phrase of the moment. Which will not necessarily or may not be current two or three generations hence. Unless, in my view, we ought to tend to certain domestic issues very soon now.

Begin with ethnicity. It would be just forty years ago that Nathan Glazer and I finished *Beyond the Melting Pot*. Our subject was ''The Negroes, Puerto Ricans, Jews, Italians and Irish of New York City,'' but we had something more in mind. Marxist theory predicted, you might say, that these groups would meld together as a united and militant mass, as espoused by assorted left-wing organizations. We argued that nothing of the sort had happened, or would; if anything, groups tended to become rather more distinctive with time.

We wrote that ours was a beginning book, and after forty years I can report that a more than worthy successor has come along.

In yet another remarkable achievement, *The New Americans: How the Melting Pot Can Work Again*, Michael Barone, drawing in part on our earlier paradigm finds parallels with new immigrant groups, notably Latins and Asians, members of the largest wave of immigration in our history. Demography is a kind of destiny. If there are any parallels in history, and there are, should we not look to a new era of inequality, competition, and conflict of the sort we experienced in the late 19th and early 20th century? I would think we ought, and would further contend that we got through that earlier time in our history in considerable measure through the social provision made by governments of that era, culminating in the New Deal of the 1930s. I would add, gratuitously if you like, that much of that social contract began with New York Governor Alfred E. Smith, who rose out of the quintessential melting pot, the lower east side of Manhattan.

Here, then is a proposition. Our response to the end of the cold war has been singularly muted, both in foreign and domestic affairs. In particular there has been no domestic legislation of any consequence. Neither as reward or precaution. (The G.I. Bill of Rights of 1944 was a bit of both. A reward to the veterans, and a measure to moderate the anticipated return of high unemployment.) I can envision a similar combination, albeit in reverse order.

In a word, unless we act quickly, we are going to lose Social Security established in that first era as a guaranteed benefit for retired workers, widowed mothers, and the disabled and their dependents.

We have just fifteen years before outlays of Social Security exceed income. This after eighty years of solvency and surplus. Again, demography. Social Security began as a pay-as-you-go system. The population cohort in the work force paid taxes that provided pensions for the population cohort that had retired. A Social Security card was issued to each worker, with the faint suggestion that there was a savings account of some sort somewhere in the system. Franklin D. Roosevelt famously told Luther C. Gulick, a member of his committee on government organization, that while it might indeed be a

bit deceptive, that account number meant that ''no damned politician'' could ever take his Social Security away. But all understood the reality.

Problem is that in the early years there were thirty odd workers providing benefits for one retiree. No longer. Today there are three. By 2030 there will be two.

To repeat, as the Trustees now calculate, by 2016 the system will pay out more money than it takes in. There is nominally a trust fund representing surpluses accumulated over the years, but to redeem the bonds will require general revenue. The system is no longer self-financing, with all that implies.

Obviously we ought to forestall insolvency. But would it not be well, at the same time, to address the matter of intergenerational transfer. This was well and good when there were so few retirees. No longer. Would it not then be prudent to enable workers within the Social Security system to accumulate savings of their own to be used as they see fit during retirement?

I will argue that we have to do the first, and if we do, in the process we would be enabled to do the second.

The workings of such a system are not complex, or so I would contend. Mentored by David Podoff, I introduced a bill in the 105th Congress. With some refinements I reintroduced it in the last Congress, the 106th, as S. 21, a first day bill. Senator BOB KERREY of Nebraska, a fellow member of the Finance Committee, was a co-sponsor.

Four measures are required to ensure solvency:

First. Social Security benefits are tied to the Consumer Price Index compiled by the Bureau of Labor Statistics. Some forty years ago as an Assistant Secretary of Labor I was nominally in charge of the B.L.S. where, in the aftermath of a study carried out for the National Bureau of Economic Research, it was agreed that the C.P.I. overstates inflation. It can't be helped; it is in the nature of the beast. It simply needs to be corrected. A 0.8 percentage point drop would do it nicely. We need normal taxation of benefits; as with other pensions.

Second. We need to bring all newly-hired State and local employees into the system. (It is still optional, a holdover from the 1930s when the Supreme Court would probably have ruled that the Federal Government could not tax State governments or subdivisions thereof.) Well down the line we will need to raise the retirement age once again. We did this in 1983, providing a gradual ascent to age 67 by 2027. This will one day need to rise by similar small steps to, say, 70 at mid-century. But consider; we estimate that persons who retire at age 70 in the year 2060 will on average live another 17 years. Surely a goodly spell. And note that the majority of today's beneficiaries retire before reaching 65. Benefits are lower, but the option is there and most persons take it. (It would be well for the now freestanding Social Security Administration to do some survey research to sort out the different reasons folk take this option.)

Third. We should tax benefits in the same way other retirement payments are taxed. We began partial taxation in 1983.

Fourth. We would increase the maximum computation period over time from 35 to 38 years, and by stages increase the OASDI contribution and benefit base to $99,900.

Now to a thrift savings plan. The payroll tax began in 1935 at 1 percent for employee and employer. It rose by degrees until in 1977 it was set at a combined rate of 12.4 percent, scheduled to take place in 2011. However, a combination of miscalculation, the Consumer Price Index, and misfortune, a sharp inflation owing to oil price increases, led to a sudden crisis. In 1982 the revered Robert J. Myers judged that under the existing law ''the OASDI trust fund will very likely be unable to pay benefits on time beginning in July, 1983.'' A Presidential Commission was created, and in the end it succeeded. Deficit was avoided. But the date that the maximum rate of 12.4 percent to kick in was advanced to 1990. Hence the current surplus.

We argue, however, that with the adjustments I have outlined, the earlier 10.4 percent payroll tax will provide present retirement benefits for the required 75-year period.

This is crucial. We must absolutely guarantee that the present benefit structure will continue in place before we start devising a thrift savings component. To do otherwise is to invite the most shrill protests of raiding a sacred trust for the benefit of Wall Street, and so on.

However, we can do both. And oughtn't we? At this point in time our income tax system is remarkably progressive. The top 5 percent of taxpayers pay 53.8 percent of income tax. The bottom 50 percent pay 4.2 percent. But Social Security is paid on the first dollar of income however low that income might be.

We could, of course, repeal the 1977 increase. It would mean some money in people's pockets, but not so much as you'd notice.

Or we could start thrift savings accounts for the work force at large, much along the lines of the Federal government program begun in the 1980s. An add on, not a ''carve out.'' Employees would choose among a number of plans, from government securities to market funds, and switch about from time to time. It is not unreasonable to forecast that such funds would double every ten years; making for a sizable portfolio after, say, forty years. A third to half a million dollars. As much a twice that for two-earner families.

An argument up front for doing this is that it would immediately affect the Personal Savings Rate which literally vanished in the 1990s. In 1980 annual personal saving as a percent of disposable personal income was 10.2 percent. By 1990, 7.8 percent. By 2000, −0.1 percent. Last February −1.3 percent.

I don't claim to understand this, but surely it needs attention. And I assume a national thrift savings plan would help.

Why, then, has our proposal been so little welcomed in, well, the Democratic Party and organizations with similar political and social perspectives? A possible partial explanation is that in the early 1970s conservative economists began talking up the so-called ''Chilean model'' in which all social insurance funds are invested in private securities. Not a good idea, I would think. But an idea withal. And we need ideas.

I would hope we could be spared a left-right imbroglio here. The risk, as Kenneth S. Apfel, the first Commissioner, 1997–2001, of the newly freestanding Social Security Administration, has recently written that if we do we will end up in a ''stand off.'' Which is to say we will do nothing, until there is nothing to be done. The system goes into deficit and becomes politicized beyond recognition.

Apfel makes four proposals. First, those ''on the left side of the political spectrum'' have to give up the notion that ''future Social Security benefits can never be reduced even modestly.'' Our bill would have done that modestly. (Although a C.P.I. correction only reduces the rate of growth.) Second, he continues, those on the left must need to give up the stand ''That mandatory retirement savings proposals are out of the question.'' That I fear is now doctrine of the old cadre of Social Security administrators. But why persons on the left would oppose providing workers with a measure of wealth would seem a mystery. (But, alas, may not be.) Respected economists such as Martin Feldstein have proposed investment accounts as an extension of what is already going on with the various private retirement savings plans already in place and widely in practice.

As for the ''right,'' Apfel argues that first they must give up the notion ''That private savings accounts should be carved out of Social Security benefits.'' He means that money be diverted from providing the existing benefit schedule. To which I surely agree. To say again, we propose an add on, not a carve out. Secondly, he contends the right must give up the notion ''That future Social Security revenues should never be increased even modestly.'' Again, agreed.

As for the current surplus in the funds, Apfel is more adventurous than I might be, or my colleague, David Podoff. President Clinton briefly mentioned the idea of investing some of the surplus in private equities. I suspect that would have been Apfel's idea, and he holds to it. Keep in mind that between now and 2015 we will accumulate a surplus of near $5 trillion. If it is not invested outside government, it will be spent on other things. And so a respectful hearing is in order, withal I would be cautious. We have learned to manage private and public pension funds without interfering with markets. But direct Federal investment poses temptation. Or invites blunder.

But what really are the prospects of such a transformation in our Social Security system? I know we could do it, for we have done. In the early 1980s we were on the edge of insolvency. A bipartisan Presidential Commission was stalemated, but solutions were worked out in a final two weeks of intense, albeit secret negotiations. In his account of the events, *Artful Work*, Paul Light cites my observation at the time: ''Only by defining the problem as manageable, can you manage it.'' It may also be worth noting, as recorded in an article in the current issue of Foreign Affairs, Germany, France, Spain, and Italy are evidently going to have to move from pay-as-you-go state pension systems to investment in securities.

The 2000 election campaign may have seen a breakthrough. The Republican candidate called for a thrift savings component. Let it be clear that there was no mention, has been no mention, of the preconditions I set forth earlier. Still. The Democratic candidate dismissed the idea as ''risky.'' And more. William Galston, a professor of government associated with Democratic politics later observed, with professorial candor, ''He [Governor Bush] touched the third rail of politics. We turned on the juice. Nothing happened.'' Indeed polling during the campaign showed voters approved the program by fair to considerable margins. And so in his first address to a Joint Session of Congress, now President Bush called for a thrift savings component to Social Security that would provide ''access to wealth and independence'' for all. Again, no mention of the unpleasant preliminaries. Even so, let it be recorded that the 21st century began with an avowedly conservative president espousing perhaps the most progressive social insurance measure since the New Deal. Come to think, though, Theodore Roosevelt might have liked it. Even those early 20th century British conservatives who called for a ''property owning democracy.''

We are not to expect that anything like this will happen soon. But it is scarcely too soon to get serious about the subject.

In a typically concise article in The Wall Street Journal of April 26, Albert R. Hunt described ''An Electorate Up for Grabs.'' Looking at recent polls he finds ''The bottom line: Neither party commands a comfortable majority.'' He cites Robert Teeter: ''Right now

. . . neither side has the makings of a governing coalition.'' Then James A. Johnson, a Democratic counsel, who concludes: ''If both realize that, it'll drive them to bipartisan solutions.''

Could that be a Thrift Savings Component for Social Security?

COMMENDING BOSTON MEDICAL CENTER AND DR. BARRY ZUCKERMAN FOR THEIR ADVOCACY ON BEHALF OF POOR CHILDREN

Mr. KENNEDY. Mr. President, for the past 8 years, the Boston Medical Center has had a unique program in place to give legal help to disadvantaged children and their families. Under the leadership of Dr. Barry Zuckerman, the hospital's chief of pediatrics, the Family Advocacy Program was established to fight the legal and administrative problems that doctors often face when trying to improve children's health in ways that ''pills and surgery cannot.'' Dr. Zuckerman believes that we must impact the whole child. As he puts it, ''you can't separate out a child's organ functions from the rest of his body and the context of his environment.'' That is why at Boston Medical Center, the hospital that treats more poor people than any other in Massachusetts, Dr. Zuckerman and fellow pediatricians decided to get their own lawyers to advocate on behalf of these poor children and families.

The three lawyers in the program do what they can to pressure negligent landlords to improve living conditions, help families apply for food stamps, pressure insurance companies to pay for baby formula and other things to help prevent child illness. Recently, the New York Times did a story on the program, recognizing the good it has done for the disadvantaged families of Massachusetts. I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, May 16, 2001]

BOSTON MEDICAL CENTER TURNS TO LAWYERS FOR A CURE

(By Carey Goldberg)

BOSTON, May 15—A doctor gets very tired of this kind of thing: sending a child with asthma home to an apartment full of roaches and mold; telling the parents of an anemic toddler to buy more and healthier food when they clearly do not have a cent; seeing babies who live in unheated apartments come in again and again with lung ailments.

At Boston Medical Center, the hospital that treats more poor people than any other in Massachusetts, pediatricians got so tired of it that they decided to try a radical solution: getting their own lawyers.

That is, a staff of three lawyers, right in the hospital—and on ''walk-in Mondays,'' right in the pediatrics clinic—now fights the legal and administrative battles that the doctors deem necessary to improve children's health in ways that pills and surgery cannot. The program, which goes far beyond the social work that hospitals customarily provide, is all but unique nationwide, but doctors here say they hope it becomes a model.

''We're trying to think out of the box,'' said Dr. Barry Zuckerman, the hospital's chief of pediatrics. ''I want an impact on the whole child, since you can't separate out a child's organ functions from the rest of his body and the context of his environment.''

That means that the lawyers of the Family Advocacy Program at the hospitals do things like pressuring recalcitrant landlords, helping families apply for food stamps and persuading insurance companies to pay for baby formula. With more than 300 referrals a year, they cannot go to court much, but they can help poor families navigate the administrative byways. And they can help doctors make phone calls or write letters to get their small patients what they need.

Among other things, ''we help doctors put things in legalese,'' said Ellen Lawton, a staff lawyer and project director. ''They don't teach that in medical school.''

That helps the doctors, and the doctors help the lawyers through the medical heft they can throw behind a legal or administrative request.

When a doctor writes a letter about a child's need for, say, special education classes or a mold-free apartment, ''it's not as confrontational,'' Ms. Lawton said. ''It's like, 'This is what the kids need for their health,' and who's going to argue with that?''

The Boston Medical Center lawyers knew of just one other full-fledged program like theirs, a new one in Hartford run at Connecticut Children's Medical Center, in partnership with the Center for Children's Advocacy at the University of Connecticut Law School. There, said the advocacy center's director, Martha Stone, ''it took a while for medical personnel to exactly understand the concept of the medical-legal partnership project, because lawyers make people nervous.''

''So,'' Ms. Stone said, ''they had to overcome the bias that we were in there looking at malpractice issues. We were in there doing poverty issues which would affect health outcomes. So it's taken a lot of education on the part of the lawyer to have the medical staff understand.''

At Boston Medical Center, where the Family Advocacy Program has run since 1993, the program is well accepted by now but is still exploring ways to help poor families and looking for ways to expand. The walk-in lawyers' hours began just this winter, for example, and have found plenty of takers.

One recent Monday, the mother of a diabetic girl stopped in to see Pamela C. Tames, a staff lawyer, about an administrative hearing scheduled for the next day on whether her daughter should qualify for federal disability money. The girl's diabetes was still poorly regulated, said the mother, who would not let her name be used, and she frequently had to miss school and stay in bed when her blood-sugar levels went bad. The mother, who is on welfare, had no lawyer of her own and had been denied requests for disability.

''They say being diabetic is not a disability,'' she said, ''I think it is a disability if a mother has to stay at home and come get the child from school if the child constantly gets sick.''

She came to the law clinic, the mother said, ''because I need to know how to represent my case.''

Ms. Tames told her how, beginning with the suggestion that she get an extension from the judge so she could present her case better.

In many ways, the lawyers at the medical center act as typical legal services lawyers, but they describe various forms of synergy with the doctors they help. For one thing, doctors, they say, have become more willing to ask patients questions like, ''Do you have enough food?'' now that they have lawyers who can help if the answer is no.

Before, Ms. Lawton said, ''they didn't want to screen for something they could do nothing about.''

The Family Advocacy Program said its director, Jean Zotter, is meant to work as preventive medicine; it can catch problems early because patients' families are more likely to confide troubles to doctors than to agency bureaucrats, and to trust the information they receive in a clinic, she said.

''Traditional medicine can treat the effects of poverty,'' Ms. Zotter said, ''but this is a program that hopes to intervene so that poverty won't have the effects it has on children's health.''

The greatest challenge for would-be imitators of the program, its lawyers say, is probably getting financing for such a hybrid organism. The Boston program costs about $175,000 a year; it is paid for mainly by city money for welfare-to-work transitions, because it helps many families trying to cross that bridge. The Connecticut program, which has one staff lawyer, got a three-year, $260,000 grant from the Hartford Foundation for Public Giving.

But Dr. Zuckerman has been known to unleash national phenomena before. He founded Reach Out and Read, a program beloved of the Clinton and Bush White Houses alike, which makes books a part of pediatric care. It gives children a new book at each checkup and has spread to hundreds of pediatric clinics around the country.

''I don't see what I'm doing with these nontraditional programs as just add-ons,'' Dr. Zuckerman said. ''What I'm trying to do is change pediatric care so it can have more of an impact.''

RETIREMENT OF COMMANDER THOMAS K. RICHEY, UNITED STATES COAST GUARD

Mr. KERRY. Mr. President, I rise today to offer my congratulations to a fine Coast Guard officer, Commander Thomas K. Richey, who is retiring this month after more than 20 years of dedicated service to this country. Commander Richey served as a Legislative Fellow in my personal office from 1996 to 1998. During that time he was responsible for maritime, transportation and environmental issues that fell under the jurisdiction of the Senate Commerce, Science, and Transportation Committee. In 1998 he accompanied me to Kyoto, Japan during the negotiations of the Kyoto Protocol for controlling greenhouse gases.

Throughout his long and distinguished career Commander Richey has demonstrated superb managerial and leadership skills. Tom has served in a variety of demanding billets including Operations Officer of Coast Guard Group Mobile, Alabama, Commanding Officer of Coast Guard Station Atlantic City, New Jersey and Deputy Program Manager for acquisition of Cutter and station boats. Along the way Tom has been awarded five Coast Guard Commendation Medals with Operational Distinguishing Device and one Coast Guard Achievement Medal with the ''O'' device and numerous other team and unit commendations.

When Tom left my personal office in 1998 he became the Commandant's Liaison to the United States Senate. This is a top billet reserved for only the finest the service has to offer. His performance in both my personal office and the Senate has been outstanding. As many of my colleagues know, Tom was always quick to respond to any of our questions or concerns and was an invaluable tool in helping us respond to our constituents whenever a Coast Guard issue arose. I am grateful for having had the opportunity to work so closely with Tom.

I offer again my congratulations to Commander Richey and his lovely wife Maureen who reside in Maryland with their two children Patricia and Tommy. I expect great things of this outstanding officer in the future. Mr. President, I yield the balance of my time to my colleagues, Senators BREAUX and DEWINE who wish to express their appreciation as well to Commander Richey for his dedicated service to this country.

Mr. BREAUX. I am honored to join today Senator KERRY on the occasion of Commander Thomas Richey's retirement from the United States Coast Guard.

Senator KERRY and I both serve on the Oceans and Fisheries Subcommittee, and in fact we have sat next to each other for years during committee executive sessions, hearings and other subcommittee fora. It was during these occasions that I first came to know Commander Richey. I would classify the period of 1996–1998 as a very busy time for the subcommittee. During this period, Tom was instrumental in advising Senator KERRY and subcommittee members in general on crucial oceans and fisheries, and maritime issues.

On a more personal note, I sincerely appreciate Tom's assistance and diligent follow through in support of the issues and concerns of my constituents.

It brings me and all Americans great pride in knowing that the Coast Guard is represented by individuals with such high ideals, integrity and dedication to duty. I know of the sacrifices made by Commander Richey and his family and offer my congratulations and personal thanks for a job well done. I wish Tom the best of luck in all future endeavors.

Mr. DEWINE. I commend and congratulate Commander Thomas Richey of the United States Coast Guard for his more than 20 years of service to our country. Commander Richey has had a distinguished career of public service in defense of our great nation. I greatly appreciate all he has done to assist me and my staff over the past three years with maritime transportation issues on the Great Lakes.

Additionally, Commander Richey played a vital part in helping me gain a better understanding of the varied and critical role our Coast Guard plays in the war on drugs. I've been fortunate to travel with Commander Richey, where I had the opportunity to observe, first-hand, Coast Guard drug interdiction efforts off the coast of the island of Hispanola and Puerto Rico.

Commander Richey's accomplishments have been great and his presence here on Capitol Hill will be sorely missed. I thank him for his dedication and his service to our nation. I wish him and his family all my best.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 21, 2001, the Federal debt stood at $5,654,596,844,308.03, five trillion, six hundred fifty-four billion, five hundred ninety-six million, eight hundred forty-four thousand, three hundred eight dollars and three cents.

Five years ago, May 21, 1996, the Federal debt stood at $5,115,827,000,000, five trillion, one hundred fifteen billion, eight hundred twenty-seven million.

Ten years ago, May 21, 1991, the Federal debt stood at $3,463,097,000,000, three trillion, four hundred sixty-three billion, ninety-seven million.

Fifteen years ago, May 21, 1986, the Federal debt stood at $2,030,373,000,000, two trillion, thirty billion, three hundred seventy-three million.

Twenty-five years ago, May 21, 1976, the Federal debt stood at $607,263,000,000, which reflects a debt increase of more than $5 trillion, $5,047,333,844,308.3, five trillion, forty-seven billion, three hundred thirty-three million, eight hundred forty-four thousand, three hundred eight dollars and three cents during the past 25 years.

ADDITIONAL STATEMENTS

SALUTING AMERICA'S VOLUNTEERS

● Mrs. LINCOLN. Mr. President, I want to take this opportunity to bring special attention to an area of service that I find particularly important, volunteerism. As we tackle, some of our nation's most pressing needs and problems, we should be promoting and encouraging volunteer activities in our communities.

The importance of volunteering was taught to me as a child. I want to ensure now that we all are mindful of the lessons that volunteering teaches, such as a sense of community and compassion for others. I believe we should remind ourselves of the important role that volunteers play in the delivery of human services.

Volunteers provide an invaluable service to our communities and our citizens. Their presence and contributions put the ''caring'' back into caregiving. Nowhere is this better illustrated than in the contributions volunteers make to long-term care for our nation's seniors.

For example, the Robert Wood Johnson Foundation, a philanthropic health care organization, has been supporting the creative delivery of health care and health systems for years. In my home state of Arkansas, we are working with the Johnson Foundation in a program entitled ''Faith in Action.''

''Faith in Action'' is a faith-based initiative that encourages volunteerism as a strategy for meeting the needs of the chronically ill. This program provides seed money to fund partnerships between interfaith coalitions and other community organizations, such as Area Agencies on Aging, senior centers, and hospitals. All of these organizations share a common goal—to provide volunteer care to their neighbors in need.

These groups provide a variety of services, including organizing outreach to the homebound; training group leaders who oversee outreach ministries; locating homebound people who have lost touch with their communities; recruiting volunteers from church congregations and communities; connecting with local medical and social services; and providing emotional support services to community members.

The efforts of this dedicated group have brought much-needed support back into our Arkansas communities and are changing the lives of thousands of Arkansans. We are eternally grateful to leaders like Bishop Kenneth W. Hicks of United Methodist Church and Mr. Will Dublin, who have made a tremendous commitment to fostering and sustaining Faith In Action programs in Arkansas.

Next week, these men and many other Arkansas community leaders and volunteers will join me in Little Rock for a special event entitled ''Caring Across the Continuum,'' where we will consider new strategies to promote and encourage volunteer services to assist the aging. With their contributions and energy, I believe we can make a real difference in the quality of care we extend to our state's population of seniors.

I commend these volunteers for their efforts, and I encourage them to continue setting the example for us as we seek legislative remedies for our nation's needs. If there is one thing I have come to appreciate about public policy and planning, it is that we are incapable of paying for everything that we need as a nation. Nor should we expect to do so.

Volunteers play a vital role in filling the gaps in our health care and social services systems. The mere act of volunteering encourages us to look outside ourselves, which in turn nurtures the growth of caring communities. Let's encourage the rest of our nation to consider such efforts as we look to the future and seek to re-weave the moral fabric of our country with the qualities of volunteerism.●

TRIBUTE TO ROBERT H. FOSTER, PUBLISHER AND MODEL CITIZEN

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute

to Robert H. Foster of Dover, NH, publisher of the distinguished New Hampshire newspapers Foster's Daily Democrat and the Laconia Citizen, and a number of other papers, in honor of his 80th birthday which he celebrated on May 17. The newspaper is the longest continually managed and owned periodical by direct descendants of its founder with the family name in its banner.

I have known Bob for nearly 20 years. He is man of impeccable character, commitment to his community, and devotion to his family. His dedication to journalistic excellence has won him the respect of many politicians in the Granite State, no matter what philosophy or party affiliation. Robert Foster is known for his fairness, and for impressing upon his writers and editors that ''integrity matters.''

Robert and his wife, Terri, have been the driving force behind the success of the newspaper. Foster's Daily Democrat is rich in history dating back to the founding father of the newspaper, Joshua Lane Foster. On June 18, 1873, Joshua published the first edition of the Dover area newspaper. Robert assumed ownership of the newspaper upon the death of his father, Frederick Foster, on November 7, 1956. Robert has worked diligently to ensure that the newspaper continually maintains a standard of professionalism.

Today, as in 1873, Robert understands the importance of keeping the citizens of his community abreast of information which affects the quality of life in the Seacoast and the Lakes Region. Robert and Foster's Daily Democrat are a mainstay in the community, providing the latest news and information to their readers.

As members of the greater Dover community, Robert and Terri have been generous benefactors. Among other accolades, they have been honored as ''Citizens of the Year'' in Dover.

Robert, a World War II and Korean conflict veteran, has also served on the Board of Governors with the New England Newspaper Association and is a former Trustee at the University of New Hampshire.

Bob and Terri have three children: Catherine Hayward, Patrice Foster and Robert F. Foster. They are also proud grandparents of Catherine and Gregg Hayward and Samuel and Joshua Foster.

I commend Robert Foster for his numerous contributions to his community and our state. He is an exemplary leader who has gained the respect of those who know him. It is an honor and a privilege to represent him in the U.S. Senate, and I am proud to call him my friend. ●

SMALL BUSINESS ADMINISTRATION AWARDS

● Mr. LEAHY. Mr. President, I rise today to congratulate Susan Dollenmaier of Tunbridge who was chosen as the Vermont Small Business Person of the Year. She has shown extraordinary innovation and vision in building a successful business in Vermont.

Ms. Dollenmaier is the president and co-founder of Anichini Inc., an importing and manufacturing company that designs, wholesales, and retails linens and textiles from Italy, India, the Far East, and Eastern Europe. Anichini also has a furniture division and a line of products for infants. A former social worker for the state of Vermont, Dollenmaier and her ex-business partner, Patrizia Anichini, launched the company about 20 years ago with only a $600 investment. This year, sales of Anichini's linens are expected to top $10 million. Besides its outlet store in West Lebanon, New Hampshire—a site she hopes to move to the Vermont side of the Connecticut River very soon—and a new one slated to open in Manchester, Vermont, Anichini operates retail stores in Beverly Hills and Dallas, along with a boutique in New York City. Susan makes sure that some of the cash flow from her wealthy and demanding clientele finances flex time, day care stipends, generous vacations and holidays, a profit-sharing plan and other benefits—as well as better-than-average wages—for her largely female work force of 45 employees. We are very happy Susan chose to start and maintain her business in Vermont.

I commend Susan and all of her employees for receipt of this prestigious award.

I ask that a copy of an April 15, 2001, article in the Valley News outlining Ms. Dollenmaier's achievements be printed in the RECORD.

The article follows:

SBA HONORS TURNBRIDGE'S ANICHINI INC.

(By Bob Piasecki)

TURNBRIDGE.—Most people drive right past the yellow farmhouse off Route 110 that contains Anichini Inc.'s offices, and that's just fine with Susan Dollenmaier.

Dollenmaier, president and co-founder of Anichini, the importer, manufacturer, wholesaler and retailer of linens and textiles for the rich and famous, prefers to keep a low profile.

That explains why there isn't a sign outside Anichini's headquarters or its warehouse farther down the road—and why there never will be, as long as Dollenmaier is running the company.

''I'm not into being a celebrity,'' says Dollenmaier, dressed casually in black leggings and a gray cable-knit sweater. ''I just want us to get recognition because of our products.''

That won't be possible for much longer because Dollenmaier was just named Vermont's Small Businessperson of the Year by the state's Small Business Administration.

Some of Dollenmaier's employees went ahead and nominated their boss for the prestigious award without telling her, and she ended up winning.

The selection put Dollenmaier in the running for being named the national Small Business Person of the Year award, which will be announced next month in Washington D.C.

The SBA singled out Dollenmaier and Anichin for ''seamlessly blending economic success with socially conscious business practices.''

Deborah Mathews, who has worked with Dollenmaier virtually since the day Anichini was launched, said she was willing to reduce her salary and make other painful cuts when times were tough.

''Susan's focus on the needs of her staff and the community in which she lives and works made her an ideal recipient for this honor,'' added Matthews.

''Susan has a profound gift for recognizing hidden potential, and she knows how to bring it out in the open,'' said Kenneth Silvia, director of the SBA's office in Vermont. ''It's manifest not only in her choice of Anichini's product line, but in the people who work at the company—the majority of whom are Vermonters.''

A former social worker for the state of Vermont, Dollenmaier and her ex-partner, Patrizia Anichini, launched the company about 20 years ago with a paltry $600 investment. This year, sales of Anichini's linens are expected to top $10 million.

Besides it outlet store in the Powerhouse Mall in West Lebanon, and a new one slated to open this summer in Manchester, Vt, Anichini operates retail stores in Beverly Hills and Dallas, along with a boutique in New York City. Its regular clientele includes celebrities such as Oprah Winfrey, Sharon Stone and Tom Cruise.

Not bad for the daughter of an electrical salesman who grew up in Libertyville, Ill., a small agricultural town 45 miles northwest of Chicago.

Dollenmaier said she always had a thing for beautiful textiles, but doesn't quite know where that fascination came from. ''That's something to figure out with a therapist,'' she jokes. But she suspects it probably has something to do with her grandmother, a dressmaker who also made her own quilts.

She sewed her own clothes as a teenager, and began collecting antique fabrics of all styles and types, never thinking it was ever going to turn into a business.

After graduating from Southern Illinois University, where she earned a degree in design and studied under R. Buckminster Fuller—the inventor of the geodesic dome—Dollenmaier bounced around for a while.

Her life changed in the early 1970s, when she came to south Royalton from Los Angeles to visit her sister, whose husband was attending Vermont Law School at the time, and fell in love with the area.

''It was spring. It was so green and there was so much water,'' Dollenmaier recalled, sitting at an enormous wooden table in Anichini's spacious conference room.

''It was so refreshing, I turned to my sister and said, 'this has got to be one of the most beautiful places in the world,' and essentially I never left after that.''

She got a job as a social worker for the state of Vermont, and helped set up several programs including Meals on Wheels in Tunbridge and many of the other towns along the First Branch of the White River. At the same time, Dollenmaier continued to go to tag sales, flea markets and estate sales, collecting antique fabrics for her burgeoning collection. After she sold part of her cache in New York City, Dollenmaier decided it was time for a major life change.

''It finally dawned on me that I wanted more challenges, and that I was headed toward running some government program in Washington, D.C., if I continued to be a social worker,'' she says.

So she quit after seven years, and with her partner, rented a loft in Manhattan on 20th Street. ''We lived there hand-to-mouth,'' she said buying, selling and swapping antique linens.

She remembers driving an old, unheated bread truck filled with their wares back and forth from New York and Vermont, where she also kept an apartment in Tunbridge. The duo got their first big break when Barney's, the upscale New York department

store, agreed to sell some of their material in its home furnishings store, which was just opening.

During a trip to Venice with her husband, glassblower Robin Mix, Dollenmaier got the idea of making and selling new, heirloom quality textiles, which is essentially what Anichini does today.

''In Italy I found women who were still making the same kind of textiles I was buying and selling,'' she says. ''That's really where the seed of the business was formed.''

Soon after that, Anichini caught another break when one of Italy's premier textile weavers took a chance on the fledgling company and agreed to give it $50,000 worth of materials on consignment.

The business sold all $50,000, and was on its way. It grossed $100,000 in its first year, and has continued to expand and grow. Dollenmaier and Anichini eventually sold their loft in New York, and used the proceeds to buy the buildings the company still owns in Tunbridge.

The partners went their separate ways a few years ago, when Dollenmaier bought out Anichini's share in the business.

Today, Anichini has a furniture division, a line of products for infants and is widening its scope to include fabrics and designs from India, the Far East, Eastern Europe and other countries. It no longer bills itself as simply an purveyor of Italian, Dollenmaier says.

The company recently worked out an agreement with a weaver in India who is trying to keep some of the country's old techniques alive.

Dollenmaier acknowledges that the 2,000 or so women who make textiles for Anichini in India are, at least by Western standards, poor. Asked how this squares with Anichini's Ben & Jerry's-style commitment to social responsibility, Dollenmaier says she has thought deeply about this question.

''I guess I'd say they've got to be working doing something, and they are making a lot more money making stuff for us as opposed to someone else.''

One thing is certain, Anichini's 60 employees in the United States are treated quite well. The company provides profit sharing, which has averaged more than 10 percent of the employee's salary over the past five years, 11 paid holidays, five weeks vacation after five years of service, and paid membership in gym.

Dollenmaier hopes to eventually move Anichini's outlet store in West Lebanon across the river to the Route 4 corridor in Vermont. Long-range, she also plans to consolidate all of Anichini's operations in a new facility in Tunbridge that will be even harder to find than its existing buildings.

Looking back on her life and how she has parlayed a hobby and passion into a highly successful business, Dollenmaier says: ''I'm really doing exactly what I want. I really have very few regrets.''●

TRIBUTE TO MAJOR GENERAL MICHAEL W. DAVIDSON

● Mr. MCCONNELL. Mr. President, today I rise to pay tribute to a great American, Major General Michael W. Davidson for his 32 years of meritorious service to our Nation. On June 16, 2001, Major General Davidson will retire from the service, and I know my colleagues join me in expressing our gratitude for his many contributions.

Major General Davidson began his career as an enlisted member of the Army 32 years ago. Since that beginning, he served his Nation in the Active Duty Army, U.S. Army Reserve, and the Army National Guard. His diligence and commitment to the United States Army did not go unnoticed, he was eventually promoted to the rank of two-star General Officer. In this capacity, General Davidson served a three year term as the first ever Assistant to the Chief Joint Chiefs of Staff for National Guard Matters.

During his tenure as Assistant to the Chief Joint Chiefs of Staff for National Guard Matters, Major General Davidson provided considerable insight and made lasting contributions regarding the integration of the Nation's Reserve Component forces into the planning and strategies of the United States Armed Forces. Major General Davidson's comprehensive knowledge of the Reserve Component and its capabilities as well as insightful analysis of our national security concerns were invaluable assets and set the tone for this new position. I am confident that all who follow Major General Davidson will benefit tremendously from his example.

Perhaps even more than his distinguished service, Major General Davidson is justifiably proud of his loving family. He and his wife Jo Ann have three children, twins Megan and Claire, both 22, and Brian, age 15. General Davidson and his family make their home in my hometown of Louisville, KY. Although he lives and was educated in Louisville, Major General Davidson's true allegiance is a few miles down the road in Lexington, or perhaps more specifically, Rupp Arena. Like so many others in the Bluegrass, The General is a huge supporter and fan of Kentucky Wildcat Basketball and I can hope that the next phase of his life will afford him many opportunities to enjoy the Wildcats in person.

In addition to catching as many Big Blue games as possible, Major General Davidson plans to busy himself with consultation work and teaching at the college level. Clearly, his commitment to service will endure.

Michael Davidson's time in uniform may be drawing to a close, however his record of dedicated service will continue for many years to come. On behalf of this body, I thank him for his dedication and contributions to this nation, and sincerely wish him and the entire Davidson family the very best in his retirement.●

NORTHWEST GEORGIA GIRL SCOUT GOLD AWARD WINNERS

● Mr. MILLER. Mr. President, I am proud to announce that 53 girls from Northwest Georgia have achieved the Girl Scout Gold Award for the year 2001. The Gold Award is the highest honor a Girl Scout can accomplish, and each girl has endured a rigorous process during the last three years of the Scouting program.

The many lessons learned through the Girl Scout program will serve each girl well in the years to come. Setting and accomplishing goals, becoming effective leaders, and making a commitment to help others are among the many experiences each girl has had that set them apart from their peers. The special skills that the girls developed will be a tremendous asset to them as they finish their education and progress onto greater experiences.

Over the previous 3 years, each girl has illustrated tremendous dedication, effort, and hard work to achieve this prestigious award. However their success could not have been achieved without the support and encouragement of their family, friends, teachers, and troop leaders. On the quest for the Gold Award, each girl has endured challenges and hardships that would not have been overcome without the assistance of their community. As we recognize the achievement of these 53 girls, let us not forget to acknowledge the sacrifice that each family went through to help them reach their goal.

Below are the young ladies from the Girl Scout Council of Northwest Georgia who have achieved the 2001 Gold Award.

The list follows:

Anna Maria Arias, Atlanta, Georgia; Elizabeth Anne Baynes, Conyers, Georgia; Meredith Jane Bridges, Stone Mountain, Georgia; MeChelle A. Brown, East Point, Georgia. Whitney Suzanne Calhoun, Stone Mountain, Georgia; Lauren Catchpole, Roswell, Georgia; Lisa Collins, Lawrenceville, Georgia; Erin E. Conboy, Roswell, Georgia; Katherine Davis, Lawrenceiville, Georgia; and Amiris Duckwyler-Watson, College Park, Georgia.

Jennifer MaryAlice Ellis, Smyrna, Georgia; Valerie Jaye Elston, Alpharetta, Georgia; Catherine Anne Farrington, Lithonia, Georgia; Courtney Lashan Foster, Ellenwood, Georgia; Elizabeth K. Gilbert, Powder Springs, Georgia; Kara Renita Greene, Fairburn, Georgia; Lindsey B. Harris, Roswell, Georgia; Elizabeth Hollis, College Park, Georgia; and Amanda Katie Lillian Honea, Woodstock, Georgia.

Sharon Ashley Johnson, Stone Mountain, Georgia; Katherine Kauffman, Lilburn, Georgia; Katherine Killebrew, Marietta, Georgia; Adrienne Janiece Lee, Atlanta, Georgia; Catrina Marie Madore, Lilburn, Georgia; Laura Emily Cuvo, Lawrenceville, Georgia; Leanna Jane Dailey, Dalton, Georgia; Maire M. Daly, Roswell, Georgia; Amanda Suzanne Mullis, Marietta, Georgia; and Mai-Lise Trinh Nguyen, Dunwoody, Georgia.

Natalie Nicole Parks, Jonesboro, Georgia; Virginia LaShea' Powell, Fayetteville, Georgia; Jessica Ransom, Riverdale, Georgia; Jennifer C. Rausch, Norcross, Georgia; Charlotte Anne Grover, Lawrenceville, Georgia; Ashley Nicole Haney, Atlanta, Georgia; Farrah Leah Harden, Atlanta, Georgia; Joyce Elizabeth Reid, Conyers, Georgia; and Sarah Ellen Sattlemeyer, Stone Mountain, Georgia.

Courtney Laurette Simmons, Atlanta, Georgia; Caroline Elizabeth Smith, Dalton, Georgia; Katherine Leigh Smith, Dalton, Georgia; Natalie Stone, Lilburn, Georgia; Tiffany Nicole Meriweather, East Point, Georgia; Lauren K. Meyers, Lilburn, Georgia; Margaret Ayers Miller, Dalton, Georgia; Stephanie D. Taylor, Riverdale, Georgia; Chandra L. Teddleton, Decatur, Georgia; Katherine DeAnn Weisz, Stone Mountain, Georgia; Bethany Wiethorn, Lawrenceville, Georgia; and Brooke Wiggins, Lilburn, Georgia.●

DOUGLASS W. COOPER—OHIO TEACHER OF THE YEAR

● Mr. DEWINE. Mr. President, as we continue to debate the education reform legislation and the importance of teachers, in particular, I would like to recognize and congratulate an outstanding teacher from my home state, Mr. Douglass W. Cooper, who has been named the Ohio Teacher of the Year for 2001.

Nothing is as important to our children's education than the quality of their teachers. My own high school principal, Mr. Malone, once told me that when it comes to education in our schools, only two things really matter, a student who wants to learn and a teacher who can teach. Mr. Malone was right 35 years ago, and he's still right today!

A good teacher has the power to fundamentally change the course of a child's life. I'm sure that each of us can recall at least one great teacher who inspired us, or motivated us and changed our lives. These teachers guided us then and continue to influence us today.

Douglass Cooper is one of those teachers. He is the kind of teacher who has a life-lasting impact on his students. And, as Ohio Teacher of the Year, Mr. Cooper is being recognized for this and for his outstanding dedication and leadership in the classroom, school, and community.

Mr. Cooper, who received both a bachelor's and a master's degree from Wright State University, is currently a social studies teacher in Clinton County, Ohio, and has been teaching in the Wilmington School System for the last ten years. He serves as the chair of the social studies department at Wilmington High School. Mr. Cooper is a member of the Wilmington Local Professional Development Committee and serves his school as a mentor for entry-year teachers. He is a National Board Certified teacher and received the Ohio Governor's Educational Leadership Award in 1999.

Additionally, Mr. Cooper has spent much of his free time volunteering in his community. He is involved in the Clinton County Kids Voting Steering Committee and serves as Scoutmaster of Boy Scout Troop 909.

I commend Douglass Cooper for his exceptional service and his unending dedication to his students and community. He is a great role model for our young people in school, as well as for his colleagues in the teaching profession. Ohio is honored to have him as a representative this year for teachers all over our State.●

IN CELEBRATION OF SANTA CLARA UNIVERSITY'S 150TH ANNIVERSARY

● Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate my thoughts on the 150th Anniversary of Santa Clara University.

Santa Clara University, located in the heart of California's Silicon Valley, became California's first school of higher learning in 1851. The college is celebrating its sesquicentennial this year on the same Santa Clara Valley campus it has occupied continuously since its founding. At the center of campus is the beautiful Mission Santa Clara de Asis, the eighth of the original 21 California missions.

Santa Clara University brings the intellectual rigor, respect for scholarship, and spiritual vision of its Jesuit founders to students of all backgrounds and beliefs. In the fall of 1961, women were accepted as undergraduates and Santa Clara University became the first coeducational Catholic University in California. The college is committed to the diversity that distinguishes California and the United States throughout the world and its student body includes more than 35 percent minority group members.

Santa Clara University's unique community events, undergraduate and nationally recognized graduate programs greatly inform and enrich communities in the Silicon Valley and the State of California. The sesquicentennial of Santa Clara University is a time for celebration by us all. ●

TRIBUTE TO WILLIAM HAZELETT

● Mr. LEAHY. Mr. President, I rise today to congratulate William Hazelett of Colchester who was chosen as the United States Small Business Administration National Exporter of the Year. Bill has shown extraordinary innovation and vision in building a very successful business in Vermont.

Bill Hazelett and his wife Dawn are old friends of mine and Marcelle's. Bill is the president of Hazelett Strip-Casting Corp., a manufacturing firm that designs and makes continuous metal casting machines designed to produce long sheets of metal and wire for everything from pennies to aluminum siding to automobile bodies. Hazelett Strip-Casting now employs 145 people. Foreign business accounts for 70 percent of its $23 million in annual sales, and Hazelett Strip-Casting has clients all around the world, including much of Europe, Canada, Indonesia, Japan, China, Saudi Arabia, Brazil and Chile. Bill moved his company to Vermont from Connecticut in 1957 because, as he says, ''I wanted to ski.'' We are very happy he came and decided to stay.

I commend Bill and Dawn for receipt of this prestigious award.

I ask that a copy of a May 9, 2001, article in the Burlington Free Press outlining Bill Hazelett's achievements be printed in the RECORD.

The article follows:

[From the Burlington Free Press, May 9, 2001]

COLCHESTER MAN NAMED SBA'S NATIONAL EXPORTER OF THE YEAR

R. William Hazelett of Colchester on Tuesday received the U.S. Small Business Administration's National Exporter of the Year award from President George W. Bush in a White House ceremony. Hazelett, 82, president of Hazelett Strip-Casting Corp., was honored for building a manufacturing firm for which foreign business accounts for 70 percent of its $23 million in annual sales.

Hazelett had a simple reason for the recognition. ''We have a technology that is superior to any other technology in fabricating sheet metal,'' he said. ''My business was selected (for the award) as being very, very good at creating exporting business for the United States.'' The company designs and makes continuous metal casting machines, behemoths designed to produce long sheets of metal and wire that can weigh as much as 120 tons and cost $15 million. The machines produce sheet metal for everything from pennies to aluminum siding to auto bodies, Hazelett said.

Clients are scattered all over the world, including much of Europe, Canada, Indonesia, Japan, China, Saudi Arabia, Brazil and Chile, he said. Earlier this year, a Hazelett representative was part of the trade mission that traveled to Argentina with Gov. Howard Dean. Though no sale was made on the trip, it started a process that will lead to a sale, Hazelett said. ''You don't sell one of these machines overnight because a machine might cost $15 million,'' he said. ''You've got a whole plant that might cost $150 million that they go into. It's a very long-term consideration.'' Hazelett was confident a deal would be signed. ''We will get the business because we are the best in the world,'' he said.

Hazelett, which does all of its engineering and manufacturing in Vermont, employs 145 people. The company moved here in 1957 from Connecticut because, Hazelett said, ''I wanted to ski.''

In naming Hazelett for the honor, the SBA noted his company's ''stellar success in export marketing.'' ''Bill Hazelett's contribution to Vermont's stature as a world-class exporter center is absolutely outstanding,'' said Kenneth Silver, director of the SBA's Vermont district office.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 1696) to expedite the construction of the World War II memorial in the District of Columbia.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 495. an act to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building.''

H.R. 1801. An act to designate the United States courthouse located at 501 West 10th Street in Fort Worth, Texas, as the ''Eldon B. Mahon United States Courthouse.''

H.R. 1885. An act to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 56. Concurrent resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

H. Con. Res. 76. Concurrent resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

H. Con. Res. 79. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 87. Concurrent resolution Authorizing the 2001 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

H. Con. Res. 109. Concurrent resolution honoring the services and sacrifices of the United States merchant marine.

The message also announced that pursuant to section 1092(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), the Speaker has appointed the following members on the part of the House of Representatives to the Commission on the Future of the United States Aerospace Industry: Mr. F. Whitten Peters of Washington, D.C. and Mrs. Tillie Fowler of Jacksonville, Florida.

The message further announced that pursuant to the Congressional Award Act (2 U.S.C. 801), as amended by Public Law 106–533, the Speaker has appointed the following Members of the House of Representatives to the Congressional Recognition for Excellence in Arts Education Awards Board: Mr. MCKEON of California and Mrs. BIGGERT of Illinois.

ENROLLED BILL SIGNED

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1696. An act to expedite the construction of the World War II memorial in the District of Columbia.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 495. An act to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building''; to the Committee on Environment and Public Works.

H.R. 1801. An act to designate the United States courthouse located at 501 West 10th Street in Fort Worth, Texas, as the ''Eldon B. Mahon United States Courthouse''; to the Committee on Environment and Public Works.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 109. Concurrent resolution honoring the services and sacrifices of the United States merchant marine; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LUGAR for the committee on Agriculture, Nutrition, and Forestry.

Lou Gallegos, of New Mexico, to be an Assistant Secretary of Agriculture.

Mary Kirtley Waters, of Virginia, to be an Assistant Secretary of Agriculture.

Eric M. Bost, of Texas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

William T. Hawks, of Mississippi, to be Under Secretary of Agriculture for Marketing and Regulatory Programs.

J. B. Penn, of Arkansas, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BYRD, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CLELAND, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 924. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 925. A bill to amend the title XVIII of the Social Security Act to provide a prescription benefit program for all medicare beneficiaries; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. HELMS, Mr. SCHUMER, Mr. HOLLINGS, and Mrs. FEINSTEIN):

S. 926. A bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma; to the Committee on Environment and Public Works.

By Mr. CORZINE:

S. 927. A bill to amend title 23, United States Code, to provide for a prohibition on use of mobile telephones while operating a motor vehicle; to the Committee on Environment and Public Works.

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

S. 928. A bill to amend the Age Discrimination in Employment Act of 1967 to require, as a condition of receipt or use of Federal financial assistance, that States waive immunity to suit for certain violations of that Act, and to affirm the availability of certain suits for injunctive relief to ensure compliance with that Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HUTCHINSON:

S. 929. A bill to amend the National Labor Relations Act to preserve charitable giving; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN:

S. 930. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon National Park to secure bonds for capital improvements, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CLELAND:

S. 931. A bill to require certain information from the President before certain deployments of the Armed Forces, and for other purposes; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mr. SMITH of Oregon, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SCHUMER, Mr. DORGAN, Mr. DAYTON, Mrs. CLINTON, Ms. STABENOW, Mr. KENNEDY, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mr. WELLSTONE, Mr. DURBIN, and Mrs. BOXER):

S. 932. A bill to amend the Food Security Act of 1985 to establish the conservation security program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JEFFORDS (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 933. A bill to amend the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 934. A bill to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and

for other purposes; to the Committee on Indian Affairs.

By Mrs. BOXER:

S.J. Res. 14. A joint resolution providing for congressional disapproval of the rule submitted by the Environmental Protection Agency relating to the delay in the effective date of a new arsenic standard; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S.J. Res. 15. A joint resolution providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 93. A resolution congratulating the University of Minnesota, its faculty, staff, students, alumni, and friends, for 150 years of outstanding service to the State of Minnesota, the Nation, and the World; considered and agreed to.

By Mr. STEVENS:

S. Con. Res. 41. A concurrent resolution authorizing the use of the Capitol grounds for the National Book Festival; considered and agreed to.

ADDITIONAL COSPONSORS

S. 283

At the request of Mr. MCCAIN, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Ms. CANTWELL), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 283, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 284

At the request of Mr. MCCAIN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 367

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 538

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 538, a bill to provide for infant crib safety, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 565

At the request of Mr. DODD, the names of the Senator from New York (Mr. SCHUMER), the Senator from Georgia (Mr. CLELAND), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. CONRAD), the Senator from West Virginia (Mr. BYRD) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 565, a bill to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

S. 603

At the request of Mr. LIEBERMAN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 603, a bill to provide for full voting representation in the Congress for the citizens of the District of Columbia to amend the Internal Revenue Code of 1986 to provide that individuals who are residents of the District of Columbia shall be exempt from Federal income taxation until such full voting representation takes effect , and for other purposes.

S. 627

At the request of Mr. GRASSLEY, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 657

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Colorado (Mr. ALLARD), the Senator from South Dakota (Mr. JOHNSON), the Senator from New York (Mr. SCHUMER), the Senator from Vermont (Mr. LEAHY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Idaho (Mr. CRAIG), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Michigan (Ms. STABENOW), the Senator from Nebraska (Mr. NELSON), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. CONRAD), the Senator from Minnesota (Mr. DAYTON), and the Senator from Mississippi (Mr. COCHRAN) were added as a cosponsors of S. 657, a bill to authorize funding for the National 4–H Program Centennial Initiative.

S. 706

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 721

At the request of Mr. HUTCHINSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 736

At the request of Mr. ALLARD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 736, a bill to amend title 10, United States Code, to provide for the appointment of a Chief of the Veterinary Corps of the Army in the grade of brigadier general, and for other purposes.

S. 786

At the request of Mr. DURBIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 786, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 847

At the request of Mr. DAYTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 862

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. 862, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

S. 876

At the request of Mr. INHOFE, the names of the Senator from Delaware (Mr. CARPER) and the Senator from New Jersey (Mr. CORZINE) were added as a cosponsors of S. 876, a bill to amend the National Environmental Education Act to redesignate that Act as the ''John H. Chafee Environmental Education Act:, to establish the John H. Chafee Memorial Fellowship Program and the Theodore Roosevelt Environmental Stewardship Grant Program, to extend the programs under that Act, and for other purposes.

S. 894

At the request of Mr. HELMS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 894, a bill to authorize increased support to the democratic opposition and other oppressed people of Cuba to help them regain their freedom and prepare themselves for a democratic future, and for other purposes.

S. RES. 89

At the request of Mr. TORRICELLI, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Virginia (Mr. ALLEN), and the Senator from Maine (Ms. SNOWE) were added as a cosponsors of S. Res. 89, a resolution expressing the sense of the Senate welcoming Taiwan's President Chen Shuibian to the United States.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

AMENDMENT NO. 653

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 653 intendent to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 674

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 674 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 677

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 677 intendent to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 684

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 684 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 694

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 694 intendent to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 695

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 695 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 698

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 698 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 699

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 699 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Ms. CANTWELL, her name was added as a cosponsor of amendment No. 699 proposed to H.R. 1836, supra.

AMENDMENT NO. 700

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 700 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 707

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 707 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 711

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 711 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 711 proposed to H.R. 1836, supra.

AMENDMENT NO. 717

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 717 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 719

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 719 intendent to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 721

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 721 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 722

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 722 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 724

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 724 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 725

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 725 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 726

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 726 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 727

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 727 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 729

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 729 intendent to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 729 intendent to be proposed to H.R. 1836, supra.

AMENDMENT NO. 730

At the request of Mr. HARKIN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator

from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 730 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 730 proposed to H.R. 1836, supra.

At the request of Mr. HARKIN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 730 proposed to H.R. 1836, supra.

AMENDMENT NO. 731

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 731 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 731 intended to be proposed to H.R. 1836, supra.

AMENDMENT NO. 733

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 733 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 740

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 740 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 742

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 742 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 743

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 743 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 744

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 744 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 746

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 746 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 747

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 747 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 748

At the request of Mr. NELSON of Florida, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Florida (Mr. GRAHAM) were added as a cosponsors of amendment No. 748 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 748 proposed to H.R. 1836, supra.

AMENDMENT NO. 753

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 753 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 756

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 756 proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 757

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 757 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 758

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 758 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 759

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 759 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 760

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 760 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

AMENDMENT NO. 761

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 761 intended to be proposed to H.R. 1836, a bill to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BYRD, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CLELAND, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 924. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, authority for the community policing program has expired, and I rise today to introduce legislation to extend that hugely successful program for another six years.

We created this program in 1994 as part of that year's crime bill. The COPS program has worked better than any of us could have hoped. Crime has gone down every year since the program has been in existence. We have invested over $7.5 billion to make our streets safer. 115,000 officers will be funded by the end of this fiscal year. 73,600 of those officers are on the beat today, over 200 of them in my own state of Delaware. Grants have been issued to more than 12,400 law enforcement agencies. Big cities and small towns have benefitted, and more than 82 percent of all COPS grants have gone to departments serving populations of 50,000 or less.

Community policing methods are taking hold across the country. A recent Justice Department study revealed that the number of community police officers nationwide increased by 400 percent between 1997 and 1999. Schools are benefitting: by the end of this fiscal year COPS will have funded almost 5,000 school resource officers. These are specially trained officers who work in schools to prevent crimes before they occur, mentor students, and assist school administrators in creating a safe learning environment. Since COPS started funding school resource officers, their numbers across

the country have shot up more than 40 percent.

When we passed the crime bill in 1994, we set a goal of funding 100,000 officers by 2000. That goal has been met. But the need for more officers, for technology to help those officers do their job more efficiently, and for more prosecutors so the cases investigated by the police can effectively be brought, continues unabated. The Justice Department reports that in the last two fiscal years, demand for new police hiring grants has outstripped available funds by a factor of almost three to one. To meet this need, the legislation I introduce today authorizes $600 million per year over the next 6 years, enough to hire up to 50,00 more officer. We have made this portion of the program more flexible: up to half of these hiring dollars can be use to help police departments retain those community police officers currently on payroll. In another change from current law, portion of these funds can be used for officer training and education.

The legislation also provides funding for new technologies, so law enforcement can have access to the latest high-tech crime fighting equipment to keep pace with today's sophisticated criminals. Also included are funds to help local district attorneys hire more community prosecutors. These prosecutors will expand the community justice concept and engage the entire community in preventing and fighting crime. The statistics we have on community prosecutions are quite promising, and we should increase the funds available to local prosecutors, a piece of our criminal justice puzzle that has too often gone overlooked.

We need to pass this bill. Already the administration has announced its intention to end the police hiring program, to dramatically scale back the community prosecution program, and to cut other critical state and local law enforcement programs. That is not the right approach. Crime is down, but it will not stay down. Preliminary FBI crime reports for 2000 indicate that we may be reaching the end of our eight straight years of decreasing crime. Last December, the FBI reported that crime was down in most big cities, but up in cities of less than 50,000 people. It was up 1.2 percent in the South, the nation's most populous region. Several of our largest cities have reported increases in their murder rates. Crime will not stay down, unless we dedicate the resources necessary for state and local law enforcement to do their job effectively.

This bill has the support of every major law enforcement organization in the country. Fifty senators are original cosponsors of the legislation, including five Republicans. I want to pay a special tribute to my friends on the other side of the aisle and thank them for listening to their mayors, police chiefs, and officers who told them this is the right thing to do. We should not play politics with public safety, and I hope we can pursue common-sense crime-fighting proposals without regard to party.

I would like to thank the men and women of law enforcement for their service and heroism in bringing about the longest lasting decrease in crime in this nation's history. Let's build on that success, and let's continue to give them the support they deserve, by reauthorizing the COPS program.

I ask unanimous consent that the text of the bill, as well as several letters supporting its introduction, be printed in the RECORD.

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

S. 924

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 ''Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods Act of 2001'' or ''PROTECTION Act''.

SEC. 2. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after ''Nation'' the following: '', or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community policing efforts''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (C), by—

(i) striking ''or pay overtime''; and

(ii) striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to—

''(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

''(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

''(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7) by inserting ''school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time

crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2002;

''(ii) $1,150,000,000 for fiscal year 2003;

''(iii) $1,150,000,000 for fiscal year 2004;

''(iv) $1,150,000,000 for fiscal year 2005;

''(v) $1,150,000,000 for fiscal year 2006; and

''(vi) $1,150,000,000 for fiscal year 2007.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''1701(f)'' and inserting ''1701(g)'';

(C) by striking the second sentence and inserting ''Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.'';

(D) by striking ''85 percent'' and inserting ''$600,000,000''; and

(E) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).''.

POLICE EXECUTIVE RESEARCH FORUM,
Washington, DC, May 17, 2001.

Hon. JOSEPH BIDEN, JR.,
U.S. Senate,
Washington, DC.

DEAR JOE: On behalf of the members of the Police Executive Research Forum (PERF), a national organization of police professionals who serve more than 50 percent of our nation's population, I wish to express our continued support of your plans to adequately fund and reauthorize the COPS Office and its many critical programs.

The COPS program has been a highly successful crime-fighting initiative. The vast majority of COPS grant recipients have put those funds to unprecedented good use. With COPS funding, PERF members have hired more officers, purchased critical technology, implemented innovative problem-solving programs, and received valuable training and technical assistance, all of which have played an important role in advancing community policing across the country. But the COPS Office's work is far from over.

Providing the citizens in our jurisdictions with safe communities requires resources beyond local reach. The COPS program's sole mission is to respond to the needs of local law enforcement and it has delivered much-needed resources in the fight against crime. Through this partnership with the federal government, we have made tremendous advances in community policing. We have always called for multi-year reauthorization and full funding for this critical program.

PERF would welcome the opportunity to work with you to increase the flexibility of COPS hiring funds and otherwise ensure the COPS programs' long-term success. We thank you for your tireless support of law enforcement.

Sincerely,

CHUCK WEXLER,
Executive Director.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Washington, DC, May 3, 2001.

Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate,
Washington, DC.

DEAR JOE: Please be advised that the National Association of Police Organizations (NAPO) will be strongly supporting your reintroduction of S. 1760, the ''PROTECTION Act.'' NAPO, representing 4,000 unions and associations and 230,000 sworn law enforcement officers, truly appreciates your effort to reauthorize and continue the success of the COPS program.

As you know, NAPO strongly supported the passage of the 1994 Crime bill creating the COPS program. Since its inception the COPS program has funded grants for over 110,000 community police officers. Most law enforcement officials and the public recognize the benefits of putting more cops on the street. The steady decline of violent crime over the last few years is evidence of the success of this program.

We support your legislation that will extend the COPS program for another six years and put up to 50,000 more police officers on our streets and in our neighborhoods to continue the success of community policing. We also strongly support the funding of educational scholarships for active law enforcement officers and new technology to help fight crime.

NAPO is cognizant of the fact that we must not become complacent with our past success. There is still a lot of work to be done and we will continue to fight with you for the resources needed to serve our communities adequately. NAPO's position is that the declining crime rate is not an excuse to disband the COPS program, but an opportunity to hire more officers to further fight

and decrease violent crime that still permeates many of America's communities.

If I can be of assistance on this or any other matter, please have your staff contact me at (202) 842–4420.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
Alexandria, VA, May 4, 2001.

Hon. JOE BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On behalf of the entire membership of the International Brotherhood of Police Officers (IBPO), I want to thank you for introducing legislation to reauthorize the Community Oriented Policing Services (COPS) program.

As the author of the 1994 Crime Bill you understand the significance of the COPS program. Every crime statistic available shows that America is a safer place to live since we implemented the COPS program. The COPS program enables communities to combat crime in the most effective way possible—by putting more officers on the street.

I understand that they are opponents to the COPS program. I urge them to talk to police officers in their states. The IBPO believes that public safety is far too important to be caught up in political debate. It would be a tragedy to cut back on any efforts to fight crime at this critical juncture.

As the largest police union in the AFL–CIO, we have first hand knowledge of what a success the COPS program is. We look forward to working with you on this most important piece of legislation.

Sincerely,

KENNETH T. LYONS,
National President.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, May 21, 2001.

Hon. JOSEPH BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: I am writing to you regarding the Community Oriented Policing Services (COPS) program and your bill, the Protection Act. We at the National Sheriffs' Association (NSA) support COPS and we appreciate the commitment made to law enforcement by Congress.

As you may know, sheriffs around the nation depend on the COPS program to supplement their law enforcement capabilities. Sheriffs need the additional funding provided so that they can better protect and serve their communities. The COPS program has been an overwhelming success and has had a tangible and positive impact on crime reduction. Nearly two-thirds of the sheriffs offices in the Nation have benefited from grant funding from this program and the added funding has made a significant difference in how we enforce the law. A sheriff with a COPS grant can fight and control crime while a sheriff without a grant is at the mercy of the criminal. With the added capability that a COPS grant provides, we have reduced crime, streets are safer and honest law-abiding people feel secure in their communities.

NSA supports a flexible COPS program that allows sheriffs to determine their own needs and apply for funds accordingly. Sheriffs have overwhelming technology needs that can be addressed through the COPS technology grant programs. These programs have helped sheriffs purchase state-of-the-art computer technology and communications equipment. In this information age, it is more important than ever that we strive to achieve telecommunications and systems compatibility among criminal justice agencies, improve our forensic sciences capability at the state and local level and encourage the use of technologies to predict and prevent crime. All of these will give law enforcement the advantage over criminals. The total package of law enforcement support that COPS provides is an integral part of crime control in America.

In our view, COPS is a program that is vital to effective law enforcement and to sheriffs in both rural and urban jurisdictions. Without COPS, I firmly believe our communities would be a little less safe and a little more dangerous. Thank you again for your commitment to reducing crime. Know that NSA will do our part in the fight against crime and given the proper resources, we can truly make a difference.

Sincerely,

JERRY ''PEANUTS'' GAINES,
President.

By Mr. WELLSTONE:

S. 925. A bill to amend the title XVIII of the Social Security Act to provide a prescription benefit program for all medicare beneficiaries; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise to introduce long overdue legislation that will bring affordable prescription drugs to all Medicare beneficiaries. This legislation is the Medicare Extension of Drugs to Seniors, MEDS, Act of 2001.

For a good period of the time that I have been a Senator, the Federal Government has operated with budget deficits. The goal during that period was deficit reduction, while protecting the programs that are important for people. I had hoped that when the economy began to do better, and we began to see surpluses, that finally, as a Senator from Minnesota, I would be able to do really well for people. It would not just be stopping the worst, it would be doing the better.

Unfortunately, what we have this year in Washington instead is a choice. Either you are in favor of Robin-Hood-in-reverse tax cuts, with as much as 40 percent of the benefits going to the top 1 percent of earners. Or you are in favor of making an investment above and beyond reducing the debt and protecting Social Security and Medicare. I am one who favors making investments in people, for making sure that there is opportunity for all, quality education for all our children and young people, quality and affordable housing, that we honor our commitments to our veterans, that we reform mental health and achieve parity for mental health and addiction treatment services, that we help women out of domestic violence. And that we make sure that the senior citizens who built this country are able to afford prescription drugs.

Everyone in Congress knows there is a need for more affordable prescription drugs. Everyone in Congress knows that the surplus is large enough to afford both a fair tax cut and better prescription drug coverage for seniors. The surplus is largely thanks to sound budget decisions made in the early 1990s, which promoted economic growth and greatly expanded tax revenues. Those surpluses now make it not only possible, but imperative that we address the prescription drug cost crisis. We must remember that Congress also made mistakes during the 1990s. The Balanced Budget Act of 1997 brought cuts in Medicare spending, cuts that I opposed and that will total over $600 billion. It is only fair, now that there is a surplus, to return those cuts in health care spending back into the health care system where there is need. And I don't have to tell colleagues about the need. We all know it from our own families and our constituents.

When Medicare was first enacted in 1965 the program ''mimicked'' typical private insurance which often did not include outpatient prescription drugs. Times have changed, but in that regard Medicare has not. Virtually all employment based insurance now includes outpatient prescription drug coverage. Fully 99 percent of state and local government employees have this coverage. The federal employees program requires all plans to cover out patient prescription drugs, and Medicaid in every state does the same. Its time to bring Medicare up to date with a prescription drug plan available to all beneficiaries.

You don't have to tell people that prescription drugs are the largest out-of-pocket health care cost for seniors. They know. Over 85 percent of Medicare beneficiaries take at least one prescription medicine, and the average senior citizen fills eighteen prescriptions per year. Nationally, more than half of the cost of these drugs comes directly out of seniors' pockets. In Minnesota the number is even higher. Seniors who cannot afford drug coverage often do not take the drugs their doctors prescribe. One of every eight senior citizens at some time is forced to choose between buying food and buying medicine. That's not right.

Charles Van Guilder, a Minnesota senior, was faced with the devastating option of having to divorce his wife in order to protect their assets which might be stripped away by high-rising Medicare HMO costs. Struggling with Parkinson's Disease, she was faced with an $850 monthly charge for prescription drugs and home health premiums.

Rose Grigsby was faced with a choice of living in Arizona where because of disparities in Medicare + Choice reimbursements she payed $17.50 a month for her healthcare including prescription drugs and even a health club membership and moving back home to Minnesota where she would have to pay $270 a month for 80 percent drug coverage. Despite wanting to be with family, she couldn't afford to move. Where's the fairness in that? It is time we add prescription drug coverage to Medicare so it is available on an equal basis to every senior in every state.

The drug industry America's most profitable has never wanted a prescription drug benefit included in Medicare.

The industry is interested in protecting its very large profits. The most recent annual Fortune 500 report on American business showed once again as it has in each of the last 19 years that the pharmaceutical industry ranks first in profits. In the words of the editors of Fortune Magazine, ''Whether you gauge profitability by median return on revenues, assets or equity, pharmaceuticals had a Viagra kind of year.''

Where the average Fortune 500 industry in the United States returned 5 percent profits as a percentage of revenue, the pharmaceutical industry returned 18.6 percent. Where the average Fortune 500 industry returned 3.8 percent profits as a percentage of their assets, the pharmaceutical industry returned 16.5 percent. Where the average Fortune 500 industry returned 15 percent profits as a percentage of shareholders equity, the pharmaceutical industry returned 36 percent.

The richest pharmaceutical company, Merck, pulled in nearly $6 billion in profits, more than the entire Fortune 500 airline industry and registered twice the profits of the engineering construction industry. The 12 major companies of the pharmaceutical industry made $10 Billion more in total profits than the 24 companies of the motor vehicle and parts industry, including Ford, GM and others.

Those record profits are no surprise to America's senior citizens. Medicare beneficiaries without prescription drug coverage are being gouged every day of the week by a pharmaceutical industry that charges higher prices in the United States than in any other country of the world. So, America's seniors know where those record profits come from—they come from their own pocketbooks.

Year after year, the pharmaceutical industry rakes in record profits, much at the expense of America's most vulnerable citizens: the elderly, frail and ill. The high price of drugs forces seniors to chose between food and life preserving medications. Last year, when a Medicare prescription drug benefit available to all Senior Citizens seemed within reach, the pharmaceutical industry dipped into its coffers and forked over millions of dollars to fund a stealth campaign to defeat any such proposal.

Nowhere in its campaign against a Medicare prescription drug benefit did the pharmaceutical industry tell people that it was the prescription-drug companies that were paying for the campaign. The industry's front organization is called Citizens for Better Medicare. That is like Foxes for Better Chickens. A more accurate description would be Pharmaceutical Companies for Higher Profits. But drug companies would rather hide behind a false shield, count their profits and count the ways they can continue to extract high profits from the American public, especially from the elderly.

Indeed, according to a report from the Boston University School of Public Health, the pharmaceutical industry has encouraged the spread of seven interlocking myths that have ''permeated, paralyzed and poisoned'' public discourse of prescription drug policy. Let me just share 2 of those myths:

Myth #1: High prices and profits are bestowed on the drug industry by a legitimate and bountiful free market. In reality, little of a free market is present in the world of patented prescription drugs. Today's prices and profits are therefore not justified by a legitimate free market.

Myth #2: If government interferes with today's high price and profits, ''The lights go out in the labs, and there is no R&D,'' according to PhRMA, the drug industry's lobbying arm. As the Boston University researchers noted, that is like saying ''give us all of your money or we'll let you die.'' The researchers call that PhRMA's Fog of Fear. But the reality is the drug makers' profit-maximization is not to increase research. The facts are: Analysis of 1999 data shows that the six major drug makers spent 11 percent of their revenue on research and development, while 16 percent went to profits and 31 percent went to marketing and administration. These data closely parallel those collected in earlier years. Looking at the main task of drug company employees, as of June 1998: Fully 35 percent of drug makers' employees were engaged in marketing, with an additional 13 percent in administration. Producing and developing drugs each occupied only about one-quarter of employees. Looking at changes in employment of PhRMA members, from 1995 to 1999: The number of production workers fell, research workers rose slightly, while marketing employment rose by one-third.

The fact is there is plenty of room for the pharmaceutical industry to make a good profit without gouging the American consumer.

The fact also is that with each passing year, the need for Medicare prescription drug coverage has become more acute. The reasons are well known.

First, the cost of prescription drugs has skyrocketed in recent years. Direct to consumer advertising has increased demand, and drug companies have responded by raising prices and putting life saving drugs even further out of reach of the average senior citizen. Last year alone drug prices increased an estimated 17 percent. And there is no relief in sight. This year drug costs will increase another 18 percent.

Second, these increases hit seniors disproportionately: A 1998 study by the minority staff of the House Government Reform Committee found that older Americans without prescription drug insurance pay on average twice as much as the discounted prices drug companies offer large scale purchasers like HMOs and government agencies. The PRIME Institute, headed by Steve Schondelmeyer, at the University of Minnesota found what Minnesota seniors already know, that pharmaceutical prices overseas are far less then we pay in the United States. Statistics say that for every dollar we spend in the United States, Canadians spend on average just 64 cents; Italians spend just 51 cents; the English 65 cents and Swedes 68 cents. They say statistics often lie. Well, from what I have seen and heard, the drugs seniors need most are even more expensive in the United States than those statistics tell us. Even more astounding than the average figures are some specific comparisons: Synthroid for thyroid disease costs seniors 14 times the discounted price to favored customers; and Micronase for diabetes costs over 3½ times as much. So not only are seniors forced the pay out of pocket for these drugs, but the price they are charged is a national disgrace.

Furthermore, prescription drug spending accounts for 19 percent of the out of pocket costs for senior citizens and is the largest spending category after premium payments. Beneficiaries were projected to spend an average of $480 out-of-pocket on prescription drugs in 2000. Average out-of-pocket prescription drug spending is even higher for beneficiaries in poor health, $685, those without drug coverage, $715, and those who are severely limited in their activities of daily living, $725.

The high cost of drugs puts Americans in all income groups at risk. Of those seniors with incomes below 250 percent of poverty about 38 percent, 7.6 million, lack Rx drug coverage. Of those with higher incomes 28 percent, 5.4 million, have no drug coverage.

The increase in drugs cost and utilization is far outpacing the overall increase in the cost of living. A national study by Brandeis University and PCS Health Systems published in May 2000 found that prescription drug expenditure trends were even higher than previously estimated. They found that: Prescription drug costs grew at an annual rate of 24.8 percent per year from 1996 to 1999. Prescriptions per enrollee grew 14 percent per year. And not surprisingly, the number of prescriptions per person is rising fastest in the 65+ age group, from an average of 16 prescriptions in 1996 to an average of 23 by 1999.

Rural Americans are hardest hit of all. In June 2000 the National Economic Council published a report on prescription drug coverage for rural Medicare beneficiaries. Among its findings: Rural beneficiaries are over 60 percent more likely to fail to get needed prescription drugs due to cost. A greater proportion of rural elderly spend a greater percent of their income on prescription drugs. Rural beneficiaries use nearly 10 percent more prescriptions. Rural beneficiaries pay over 25 percent more out-of-pocket for prescription drugs than urban beneficiaries but they are 50 percent less likely to have any prescription drug coverage.

For Minnesotans, the lack of a Medicare prescription drug benefit hits especially hard because there are few alternatives. Only 19 percent of Minnesota firms offer retiree health insurance and the number has been dropping. Medicare's HMO reimbursement in Minnesota is so low that no basic Medicare Managed Care Plans can include Rx Drug coverage. Even with the increased Medicare + Choice capitation payment floor we voted in last year, it is not enough for these plans to offer prescription drug coverage. When a comprehensive benefit without a cap is available, the costs become prohibitive—up to $130 per month, just for the pharmacy benefit. The cost of prescription drug coverage under the average Medigap policy in Minnesota is $90 per month, and that is only for limited benefits. Because of this, in Minnesota, 65 percent of seniors have no prescription drug coverage. That's twice the national average. But the fact is over half of the Seniors in the United States have either no prescription drug coverage or totally inadequate coverage.

Both the high cost of drugs and lack of coverage have severe consequences. People discontinue their medications against medical advice, thereby placing themselves at risk for problems like heart attacks, cancer recurrence, depression and complications of diabetes. People lower the dose they take to make their prescriptions last longer. When I was in Duluth, Minnesota, meeting with seniors to discuss this very issue, one of my constituents told me about a neighbor who cut his pills in quarters because he couldn't afford to refill the prescription and wound up with an unnecessary hospitalization. People take their medicines as prescribed but then skimp on food and other necessities. Ray Erlandson, a retired steel worker from West Duluth was at that meeting in Duluth. Ray was spending about $300 a month for prescription drugs for he and his wife. He had nearly run out of savings. What does Ray say? ''People have to choose between food and buying their drugs. That shouldn't happen in this country. It's a dirty rotten shame. I'd like to ask the VIPs of the drug companies, Do you go to church? Do you know what you are doing to the elderly people?''

How can the richest country on earth force its senior citizens to choose between the medicines they need to survive and the foods they need to stay healthy? We shouldn't allow it. The answer is to provide a prescription drug benefit for all seniors that includes a pricing policy that keeps costs affordable.

In the 1960s when barely half the nation's senior citizens could afford health insurance, and far more were at risk for the loss of their life savings, we as a country responded and created Medicare.

Today, at the beginning of a new century, when only half the nation's seniors—at best—have close to adequate prescription drug coverage, we are again called upon as a nation to respond. The beauty of it all is that we have a surplus that allows us to respond with a prescription drug program that we can all be proud of. The tragedy of it all is that we are not doing it. We have an administration that is more concerned with giving huge tax cuts to the wealthiest 1 percent of Americans than it is with providing the life sustaining medications our seniors need. We have a pharmaceutical industry that is more concerned with maximizing profits and making campaign contributions than it is with maximizing access to life saving medications and making prescription drugs affordable.

The administration's prescription drug proposal is a clear demonstration of just where their priorities are. Republicans want to give $550 billion in tax cuts just to the wealthiest 1 percent of American families, leaving a pittance for Medicare prescription drugs. And the effect of those priorities will be seen in their as yet undisclosed plan: high premiums for beneficiaries; high deductibles, up to $2000; high copay; or a benefit available to only a fraction of the seniors who need it. In short, a benefit that isn't worth much. Millions of seniors will be left still holding the bag. You can't provide the kind of Medicare Rx Drug benefit that everyone on Medicare deserves with a tin-cup budget.

Any meaningful prescription drug benefit passed by this Congress should reflect key principles: universality; low cost to beneficiaries; and serious efforts to reduce the price of prescription drugs. To remedy the high cost of prescription drugs and to provide comprehensive coverage, I am proud to introduce the Medicare Extension of Drugs to Seniors, MEDS, Act of 2001.

Specifically, under this proposal, seniors and the disabled would have a 20-percent co-pay on all prescription drugs and a small, $24 monthly premium. Every person would receive the same voluntary benefit, regardless of income or geographical location. Under the MEDS plan, no beneficiary would ever have to spend more than $2,000 out-of-pocket on their medications. Low-income beneficiaries would have no out-of-pocket expense. By contrast, other plans that have been proposed would have seniors paying up to $6,000 a year. Still, they would not necessarily cover everyone currently eligible for Medicare

How can the MEDS plan provide such a strong benefit without busting the budget? By including provisions which seriously address the outrageously high prices that Americans are forced to pay for prescription drugs.

First, the MEDS plan includes strong, loophole-free language to allow American pharmacists, wholesalers and distributors to purchase FDA-approved prescription drugs at the lower prices charged abroad. Last year, a version of this legislation passed both Houses of Congress with solid bipartisan majorities. Unfortunately, at the last minute, the pharmaceutical industry was successful in adding loopholes to the bill that essentially make it unworkable. With strong reimportation language like that included in the MEDS plan, Americans would save 30–50 percent on the price of prescription drugs without any government subsidy.

Second, the MEDS plan includes a provision, originally proposed by Representative TOM ALLEN, that would permit Medicare beneficiaries to purchase their prescription drugs at the same price other government agencies such as the VA does. MEDS also creates a so-called ''global budget'' which would allow Medicare to negotiate on behalf of all Medicare beneficiaries and work to restrain costs in the long term.

Finally, the MEDS plan would ensure that when taxpayers foot the bill for research and development of a prescription drug, the pharmaceutical industry must offer that drug at a fair and reasonable price. Today, the federal government spends billions of dollars a year on research and development of medicines. Most often, this R&D is then given over to the pharmaceutical industry, which charges Americans any price they want for the final product. If we change this absurd system, we would ensure that new medicines would be affordable in the years ahead.

You can expect the pharmaceutical industry to protest loudly. And you can expect the industry to increase its campaign contributions, which totaled $19 million last year alone, its lobbying spending, which reached $91 million in 1999, and its advertising budget.

It is interesting. One pharmaceutical company executive recently said that no senior citizen should be forced to choose between his or her prescription and other vital needs. But the high prices his company charges and the high-priced lobbyists who do its bidding on Capitol Hill are forcing that very choice on many senior citizens. While paying lip service to seniors, according to a published news story, that same executive was earning over $6 million in salary, plus stock options worth more than $10 million.

The drug companies will say that reductions in price will dry up research. I believe that is nonsense. Drug companies put billions more dollars into profits, marketing and administration than they do into research, based on information in their own annual reports. Just how hard would this most profitable of American industries be hit if we enacted a universal Medicare prescription drug benefit that required the drug companies to offer seniors the best price they now offer other Federal government programs? According to Merrill Lynch, only by about 3 percent.

In a June 23, 1999 report entitled A Medicare Drug Benefit: May Not Be So Bad, Merrill Lynch debunked the notion that a Medicare prescription drug benefit would seriously damage the

pharmaceutical industry's profitability. Merrill Lynch's analysis concludes that the toughest proposal on the table in Washington, the Prescription Drug Fairness for Seniors Act, (The Allen Bill), the provisions of which are included in this bill, and which provides a 40 percent discount on drug costs for all 39 million Medicare beneficiaries, would cut just 3.3 percent from total pharmaceutical industry revenues because volume increases would offset much of the lost revenue due to the lower prices. According to Merrill Lynch: Volume is more important than price in driving pharmaceutical company sales growth. Between 1994 and 1998, the impact of volume on sales growth outpaced price by better than a 4-to-1 ratio. Medicare beneficiaries who either lack or have inadequate drug coverage underutilize prescription drugs because they cannot afford them. With a 40-percent price discount, the one-third of beneficiaries who lack any drug coverage would increase their consumption by 45 percent, and the two-thirds with some coverage would see a 10-percent increase in drug purchases. This increased utilization reduces the lost revenue that would otherwise result from a 40-percent price discount for Medicare beneficiaries by almost one-half. Without adjusting for volume increases, a 40-percent price discount for Medicare beneficiaries would reduce total pharmaceutical industry revenues by 5.9 percent. But after adjusting for increased utilization, the net drop in sales is just 3.3 percent. And that is from just a reduction in price, not an increase in coverage. If you factor in the coverage provided by the MEDS Act which all Seniors will have, drug company revenues will increase.

It is time to get our priorities straight. Millions of hard-working Americans go to work every day and pay their taxes so that when they hit 65, they can retire in a country they can be proud of, a country that offers basic security for all an even better life for their children. Each day they read in the paper about scientific breakthroughs: the genome project and new advances in the treatment of cancer, heart disease, and diabetes, all being carried out at the National Institutes of Health, one of our nation's jewels. They turn on the television and see drug company advertisements that extol new and expensive medications. But what good is that medical research and those expensive drugs if they are unaffordable and out of reach of millions of Americans. That is the situation we have today. And it is unacceptable!

The time has come to support a comprehensive, affordable, 20-percent copay, $2000-cap, prescription drug benefit for all seniors, a plan that does not favor the health insurance or pharmaceutical industries over our own parents and grandparents. The MEDS Act provides such a benefit, and I ask my colleagues to join me in supporting this legislation.

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

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

S. 925

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 ''Medicare Extension of Drugs to Seniors (MEDS) Act of 2001''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Prescription medicine coverage was not a standard part of health insurance when the medicare program under title XVIII of the Social Security Act was enacted in 1965. Since 1965, however, medicine coverage has become a key component of most private and public health insurance coverage, except for the medicare program.

(2) At least ⅔ of medicare beneficiaries have unreliable, inadequate, or no medicine coverage at all.

(3) Seniors who do not have medicine coverage typically pay, at a minimum, 15 percent more than people with coverage.

(4) Medicare beneficiaries at all income levels lack prescription medicine coverage, with more than ½ of such beneficiaries having incomes greater than 150 percent of the poverty line.

(5) The number of private firms offering retiree health coverage is declining.

(6) Medigap premiums for medicines are too expensive for most beneficiaries and are highest for older senior citizens, who need prescription medicine coverage the most and typically have the lowest incomes.

(7) All medicare beneficiaries should have access to a voluntary, reliable, affordable, and defined outpatient medicine benefit as part of the medicare program that assists with the high cost of prescription medicines and protects them against excessive out-of-pocket costs.

SEC. 3. PRESCRIPTION MEDICINE BENEFIT PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

''PART D—PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

''ESTABLISHMENT OF PRESCRIPTION MEDICINE BENEFIT PROGRAM FOR THE AGED AND DISABLED

''SEC. 1860. There is established a voluntary insurance program to provide prescription medicine benefits, including pharmacy services, in accordance with the provisions of this part for individuals who are aged or disabled or have end-stage renal disease and who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.

''SCOPE OF BENEFITS

''SEC. 1860A. (a) IN GENERAL.—The benefits provided to an individual enrolled in the insurance program under this part shall consist of—

''(1) payments made, in accordance with the provisions of this part, for covered prescription medicines (as specified in subsection (b)) dispensed by any pharmacy participating in the program under this part (and, in circumstances designated by the Secretary, by a nonparticipating pharmacy), including any specifically named medicine prescribed for the individual by a qualified health care professional regardless of whether the medicine is included in any formulary established under this part if such medicine is certified as medically necessary by such health care professional (except that the Secretary shall encourage to the maximum extent possible the substitution and use of lower-cost generics), up to the benefit limits specified in section 1860B; and

''(2) charging by pharmacies of the negotiated price—

''(A) for all covered prescription medicines, without regard to such benefit limit; and

''(B) established with respect to any drugs or classes of drugs described in subparagraphs (A), (B), (D), (E), or (F) of section 1927(d)(2) that are available to individuals receiving benefits under this title.

''(b) COVERED PRESCRIPTION MEDICINES.—

''(1) IN GENERAL.—Covered prescription medicines, for purposes of this part, include all prescription medicines (as defined in section 1860K(1)), including smoking cessation agents, except as otherwise provided in this subsection.

''(2) EXCLUSIONS FROM COVERAGE.—Covered prescription medicines shall not include drugs or classes of drugs described in subparagraphs (A) through (D) and (F) through (H) of section 1927(d)(2) unless—

''(A) specifically provided otherwise by the Secretary with respect to a drug in any of such classes; or

''(B) a drug in any of such classes is certified to be medically necessary by a health care professional.

''(3) EXCLUSION OF PRESCRIPTION MEDICINES TO THE EXTENT COVERED UNDER PART A OR B.—

A medicine prescribed for an individual that would otherwise be a covered prescription medicine under this part shall not be so considered to the extent that payment for such medicine is available under part A or B, including all injectable drugs and biologicals for which payment was made or should have been made by a carrier under section 1861(s)(2) (A) or (B) as of the date of enactment of the Medicare Extension of Drugs to Seniors (MEDS) Act of 2001. Medicines otherwise covered under part A or B shall be covered under this part to the extent that benefits under part A or B are exhausted.

''(4) STUDY ON INCLUSION OF HOME INFUSION THERAPY SERVICES.—Not later than 1 year after the date of enactment of the Medicare Extension of Drugs to Seniors (MEDS) Act of 2001, the Secretary shall submit to Congress a legislative proposal for the delivery of home infusion therapy services under this title and for a system of payment for such a benefit that coordinates items and services furnished under part B and under this part.

''PAYMENT OF BENEFITS; BENEFIT LIMITS

''SEC. 1860B. (a) PAYMENT OF BENEFITS.—

''(1) IN GENERAL.—There shall be paid from the Prescription Medicine Insurance Account within the Supplementary Medical Insurance Trust Fund, in the case of each individual who is enrolled in the insurance program under this part and who purchases covered prescription medicines in a calendar year—

''(A) with respect to costs incurred for covered prescription medicine furnished during a year, before the individual has incurred out-of-pocket expenses under this subsection equal to the catastrophic out-of-pocket limit specified in subsection (b), an amount equal to the applicable percentage (specified in paragraph (2)) of the negotiated price for each such covered prescription medicine or such higher percentage as is proposed under section 1860G(b)(7); and

''(B) with respect to costs incurred for covered prescription medicine furnished during a year, after the individual has incurred out-of-pocket expenses under this subsection equal to the catastrophic out-of-pocket limit specified in subsection (b), an amount equal to 100 percent of the negotiated price for each such covered prescription medicine.

''(2) APPLICABLE PERCENTAGE.—The applicable percentage specified in this paragraph is 80 percent or such higher percentage as is proposed under section 1860G(b)(7), if the Secretary finds that such higher percentage will not increase aggregate costs to the Prescription Medicine Insurance Account.

''(b) CATASTROPHIC LIMIT ON OUT-OF-POCKET EXPENSES.—

''(1) IN GENERAL.—The catastrophic limit on out-of-pocket expenses specified in this subsection for—

''(A) for each of calendar years 2003 and 2004, $2,000; and

''(B) subject to paragraph (2), for calendar year 2005 and each subsequent calendar year is equal to the limit for the preceding year under this paragraph adjusted by the sustainable growth rate percentage (determined under section 1861I(b)) for the year involved.

''(2) ROUNDING.—Any amount determined under paragraph (1)(E) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''ELIGIBILITY AND ENROLLMENT

''SEC. 1860C. (a) ELIGIBILITY.—Every individual who, in or after 2003, is entitled to hospital insurance benefits under part A or enrolled in the medical insurance program under part B is eligible to enroll, in accordance with the provisions of this section, in the insurance program under this part, during an enrollment period prescribed in or under this section, in such manner and form as may be prescribed by regulations.

''(b) ENROLLMENT.—

''(1) IN GENERAL.—Each individual who satisfies subsection (a) shall be enrolled (or eligible to enroll) in the program under this part in accordance with the provisions of section 1837, as if that section applied to this part, except as otherwise explicitly provided in this part.

''(2) SINGLE ENROLLMENT PERIOD.—Except as provided in section 1837(i) (as such section applies to this part), 1860E, or 1860H(e), or as otherwise explicitly provided, no individual shall be entitled to enroll in the program under this part at any time after the initial enrollment period without penalty, and in the case of all other late enrollments, the Secretary shall develop a late enrollment penalty for the individual that fully recovers the additional actuarial risk involved providing coverage for the individual.

''(3) SPECIAL ENROLLMENT PERIOD FOR 2003.—

''(A) IN GENERAL.—An individual who first satisfies subsection (a) in 2003 may, at any time on or before December 31, 2003—

''(i) enroll in the program under this part; and

''(ii) enroll or reenroll in such program after having previously declined or terminated enrollment in such program.

''(B) EFFECTIVE DATE OF COVERAGE.—An individual who enrolls under the program under this part pursuant to subparagraph (A) shall be entitled to benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(c) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as otherwise provided in this part, an individual's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—In addition to the causes of termination specified in section 1838, an individual's coverage under this part shall be terminated when the individual retains coverage under neither the program under part A nor the program under part B, effective on the effective date of termination of coverage under part A or (if later) under part B.

''PREMIUMS

''SEC. 1860D. (a) ANNUAL ESTABLISHMENT OF MONTHLY PREMIUM RATES.—

''(1) IN GENERAL.—The Secretary shall, during September of 2002 and of each succeeding year, determine and promulgate a monthly premium rate for the succeeding year in accordance with the provisions of this subsection.

''(2) INITIAL PREMIUMS.—For months in 2003, the monthly premium rate under this subsection shall be—

''(A) $24, in the case of premiums paid by an individual enrolled in the program under this part; and

''(B) $32, in the case of premiums paid for such an individual by a former employer (as defined in section 1860H(f)(2)).

''(3) SUBSEQUENT YEARS.—

''(A) IN GENERAL.—For months in a year after 2003, the monthly premium under this subsection shall be (subject to subparagraph (B)) the monthly premium (computed under this subsection without regard to subparagraph (B)) for the previous year increased by the annual percentage increase in average per capita aggregate expenditures for covered outpatient medicines in the United States for medicare beneficiaries, as estimated and published by the Secretary in September before the year and for the year involved.

''(B) ROUNDING.—The monthly premium determined under subparagraph (A) shall be rounded to the nearest multiple of 10 cents if it is not a multiple of 10 cents.

''(C) PUBLICATION OF ASSUMPTIONS.—The Secretary shall publish, together with the promulgation of the monthly premium rates under this paragraph, a statement setting forth the actuarial assumptions and bases employed in arriving at the monthly premium under subparagraph (A).

''(b) PAYMENT OF PREMIUMS.—

''(1) PAYMENTS BY DEDUCTION FROM SOCIAL SECURITY, RAILROAD RETIREMENT BENEFITS, OR BENEFITS ADMINISTERED BY OPM.—

''(A) DEDUCTION FROM BENEFITS.—In the case of an individual who is entitled to or receiving benefits as described in subsection (a), (b), or (d) of section 1840, premiums payable under this part shall be collected by deduction from such benefits at the same time and in the same manner as premiums payable under part B are collected pursuant to section 1840.

''(B) TRANSFERS TO PRESCRIPTION MEDICINE INSURANCE ACCOUNT.—The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer premiums collected pursuant to subparagraph (A) to the Prescription Medicine Insurance Account from the appropriate funds and accounts described in subsections (a)(2), (b)(2), and (d)(2) of section 1840, on the basis of the certifications described in such subsections. The amounts of such transfers shall be appropriately adjusted to the extent that prior transfers were too great or too small.

''(2) DIRECT PAYMENTS TO SECRETARY.—

''(A) ADDITIONAL PAYMENT BY ENROLLEE.—An individual to whom paragraph (1) applies (other than an individual receiving benefits as described in section 1840(d)) and who estimates that the amount that will be available for deduction under such paragraph for any premium payment period will be less than the amount of the monthly premiums for such period may (under regulations) pay to the Secretary the estimated balance, or such greater portion of the monthly premium as the individual chooses.

''(B) PAYMENTS BY OTHER ENROLLEES.—An individual enrolled in the insurance program under this part with respect to whom none of the preceding provisions of this subsection applies (or to whom section 1840(c) applies) shall pay premiums to the Secretary at such times and in such manner as the Secretary shall by regulations prescribe.

''(C) DEPOSIT OF PREMIUMS.—Amounts paid to the Secretary under this paragraph shall be deposited in the Treasury to the credit of the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund.

''(c) CERTAIN LOW-INCOME INDIVIDUALS.—For rules concerning premiums for certain low-income individuals, see section 1860E.

''SPECIAL ELIGIBILITY, ENROLLMENT, AND COPAYMENT RULES FOR LOW-INCOME INDIVIDUALS

''SEC. 1860E. (a) STATE AGREEMENTS FOR COVERAGE.—

''(1) IN GENERAL.—The Secretary shall, at the request of a State, enter into an agreement with the State under which all individuals described in paragraph (2) are enrolled in the program under this part, without regard to whether any such individual has previously declined the opportunity to enroll in such program.

''(2) ELIGIBILITY GROUPS.—The individuals described in this paragraph, for purposes of paragraph (1), are individuals who satisfy section 1860C(a) and who are—

''(A)(i) eligible individuals within the meaning of section 1843; and

''(ii) in a coverage group or groups permitted under section 1843 (as selected by the State and specified in the agreement); or

''(B) qualified medicare medicine beneficiaries (as defined in subsection (e)(1)).

''(3) COVERAGE PERIOD.—The period of coverage under this part of an individual enrolled under an agreement under this subsection shall be as follows:

''(A) INDIVIDUALS ELIGIBLE (AT STATE OPTION) FOR PART B BUY-IN.—In the case of an individual described in subsection (a)(2)(A), the coverage period shall be the same period that applies (or would apply) pursuant to section 1843(d).

''(B) QUALIFIED MEDICARE MEDICINE BENEFICIARIES.—In the case of an individual described in subsection (a)(2)(B)—

''(i) the coverage period shall begin on the latest of—

''(I) January 1, 2003;

''(II) the first day of the third month following the month in which the State agreement is entered into; or

''(III) the first day of the first month following the month in which the individual satisfies section 1860C(a); and

''(ii) the coverage period shall end on the last day of the month in which the individual is determined by the State to have become ineligible for medicare medicine cost-sharing.

''(4) ALTERNATIVE ENROLLMENT METHODS.—In the process of enrolling low-income individuals under this part, the Secretary shall use the system provided under section 154 of the Social Security Act Amendments of 1994 for newly eligible medicare beneficiaries and shall apply a similar system for other medicare beneficiaries. Such system shall use existing Federal Government databases to identify eligibility. Such system shall not require that beneficiaries apply for, or enroll through, State medicaid systems in order to obtain low-income assistance described in this section.

''(b) SPECIAL PART D ENROLLMENT OPPORTUNITY FOR INDIVIDUALS LOSING MEDICAID ELIGIBILITY.—In the case of an individual who—

''(1) satisfies section 1860C(a); and

''(2) loses eligibility for benefits under the State plan under title XIX after having been enrolled under such plan or having been determined eligible for such benefits;

the Secretary shall provide an opportunity for enrollment under the program under this part during the period that begins on the date that such individual loses such eligibility and ends on the date specified by the Secretary.

''(c) STATE OPTION TO BUY-IN DUALLY ELIGIBLE INDIVIDUALS.—

''(1) COVERAGE OF PREMIUMS AS MEDICAL ASSISTANCE.—For purposes of applying the second sentence of section 1905(a), any reference to premiums under part B shall be considered to include a reference to premiums under this part.

''(2) STATE COMMITMENT TO CONTINUE PARTICIPATION IN PART D AFTER BENEFIT LIMIT REACHED.—As a condition of additional funding to a State under subsection (d), the State, in its State plan under title XIX, shall provide that in the case of any individual whose eligibility for medical assistance under title XIX is not limited to medicare cost-sharing and for whom the State elects to pay premiums under this part pursuant to this section, the State will purchase all prescription medicines for such individual in accordance with the provisions of this part without regard to whether the benefit limit for such individual under section 1860B(b) has been reached.

''(3) MEDICARE COST-SHARING REQUIRED FOR QUALIFIED MEDICARE BENEFICIARIES.—In applying title XIX, the term 'medicare cost-sharing' (as defined in section 1905(p)(3)) is deemed to include—

''(A) premiums under section 1860D; and

''(B) the difference between the amount that is paid under section 1860B and the amount that would be paid under such section if any reference to '80 percent' in subsection (a)(2) of such section were deemed a reference to '100 percent' (or, if the Secretary approves a higher percentage under such section, if such percentage were deemed to be 100 percent).

''(d) PAYMENT TO STATES FOR COVERAGE OF CERTAIN MEDICARE COST-SHARING.—

''(1) IN GENERAL.—The Secretary shall provide for payment under this subsection to each State that provides for—

''(A) medicare cost-sharing described in section 1905(p)(3)(A)(ii) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) and is at least 120 percent, but less than 135 percent, of the official poverty line (referred to in such section) for a family of the size involved and who are not otherwise eligible for medical assistance under the State plan; and

''(B) medicare medicine cost-sharing (as defined in subsection (e)(2)) for qualified medicare medicine beneficiaries described in subsection (e)(1).

''(2) AMOUNT OF PAYMENT.—The amount of payment under paragraph (1) shall equal 100 percent of the cost-sharing described in such paragraph, except that, in the case of an individual whose eligibility for medical assistance under title XIX is not limited to medicare cost-sharing or medicare medicine cost-sharing, the amount of payment under paragraph (1)(B) shall be equal to the Federal medical assistance percentage described in section 1905(b)) of amounts as expended for such cost-sharing.

''(3) METHOD OF PAYMENT; RELATION TO OTHER PAYMENTS.—Amounts shall be paid to States under this subsection in a manner similar to that provided under section 1903(d). Payments under this subsection shall be made in lieu of any payments that otherwise may be made for medical assistance provided under section 1902(a)(10)(E)(iv).

''(4) TREATMENT OF TERRITORIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), this subsection shall not apply to States other than the 50 States and the District of Columbia.

''(B) PAYMENTS.—In the case of a State (other than the 50 States and the District of Columbia) that develops and implements a plan of assistance for pharmaceuticals provided to low-income medicare beneficiaries, the Secretary shall provide for payment to the State in an amount that is reasonable in relation to the payment levels provided to other States under paragraph (2).

''(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section:

''(1) QUALIFIED MEDICARE MEDICINE BENEFICIARY.—The term 'qualified medicare medicine beneficiary' means an individual—

''(A) who is entitled to hospital insurance benefits under part A (including an individual entitled to such benefits pursuant to an enrollment under section 1818, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A);

''(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in section 1905(p)(2)(D)) is above 100 percent but below 150 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

''(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

''(2) MEDICARE MEDICINE COST-SHARING.—The term 'medicare medicine cost-sharing' means the following costs incurred with respect to a qualified medicare medicine beneficiary, without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under a State plan under title XIX:

''(A) In the case of a qualified medicare medicine beneficiary whose income (as determined under paragraph (1)) is less than 135 percent of the official poverty line—

''(i) premiums under section 1860D; and

''(ii) the difference between the amount that is paid under section 1860B and the amount that would be paid under such section if any reference to '50 percent' therein were deemed a reference to '100 percent' (or, if the Secretary approves a higher percentage under such section, if such percentage were deemed to be 100 percent).

''(B) In the case of a qualified medicare medicine beneficiary whose income (as determined under paragraph (1)) is at least 135 percent but less than 150 percent of the official poverty line, a percentage of premiums under section 1860D, determined on a linear sliding scale ranging from 100 percent for individuals with incomes at 135 percent of such line to 0 percent for individuals with incomes at 150 percent of such line.

''(3) STATE.—The term 'State' has the meaning given such term under section 1101(a) for purposes of title XIX.

''(4) TREATMENT OF DRUGS PURCHASED.—The provisions of section 1927 shall not apply to prescription drugs purchased under this part pursuant to an agreement with the Secretary under this section (including any drugs so purchased after the limit under section 1860B(b) has been exceeded).

''PRESCRIPTION MEDICINE INSURANCE ACCOUNT

''SEC. 1860F. (a) ESTABLISHMENT.—There is created within the Federal Supplemental Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Medicine Insurance Account' (in this section referred to as the 'Account').

''(b) AMOUNTS IN ACCOUNT.—

''(1) IN GENERAL.—The Account shall consist of—

''(A) such amounts as may be deposited in, or appropriated to, such fund as provided in this part; and

''(B) such gifts and bequests as may be made as provided in section 201(i)(1).

''(2) SEPARATION OF FUNDS.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplemental Medical Insurance Trust Fund.

''(c) PAYMENTS FROM ACCOUNT.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g).

''ADMINISTRATION OF BENEFITS

''SEC. 1860G. (a) THROUGH HCFA.—The Secretary shall provide for administration of the benefits under this part through the Health Care Financing Administration in accordance with the provisions of this section. The Administrator of such Administration may enter into contracts with carriers to administer this part in the same manner as the Administrator enters into such contracts to administer part B. Any such contract shall

be separate from any contract under section 1842.

''(b) ADMINISTRATION FUNCTIONS.—In carrying out this part, the Administrator (or a carrier under a contract with the Administrator) shall (or in the case of the function described in paragraph (9), may) perform the following functions:

''(1) PARTICIPATION AGREEMENTS, PRICES, AND FEES.—

''(A) NEGOTIATED PRICES.—Establish, through negotiations with medicine manufacturers and wholesalers and pharmacies, a schedule of prices for covered prescription medicines.

''(B) AGREEMENTS WITH PHARMACIES.—Enter into participation agreements under subsection (c) with pharmacies, that include terms that—

''(i) secure the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access);

''(ii) permit the participation of any pharmacy in the service area that meets the participation requirements described in subsection (c); and

''(iii) allow for reasonable dispensing and consultation fees for pharmacies.

''(C) LISTS OF PRICES AND PARTICIPATING PHARMACIES.—Ensure that the negotiated prices established under subparagraph (A) and the list of pharmacies with agreements under subsection (c) are regularly updated and readily available to health care professionals authorized to prescribe medicines, participating pharmacies, and enrolled individuals.

''(2) TRACKING OF COVERED ENROLLED INDIVIDUALS.—Maintain accurate, updated records of all enrolled individuals (other than individuals enrolled in a plan under part C).

''(3) PAYMENT AND COORDINATION OF BENEFITS.—

''(A) PAYMENT.—

''(i) Administer claims for payment of benefits under this part and encourage, to the maximum extent possible, use of electronic means for the submissions of claims.

''(ii) Determine amounts of benefit payments to be made.

''(iii) Receive, disburse, and account for funds used in making such payments, including through the activities specified in the provisions of this paragraph.

''(B) COORDINATION.—Coordinate with other private benefit providers, pharmacies, and other relevant entities as necessary to ensure appropriate coordination of benefits with respect to enrolled individuals, including coordination of access to and payment for covered prescription medicines according to an individual's in-service area plan provisions, when such individual is traveling outside the home service area, and under such other circumstances as the Secretary may specify.

''(C) EXPLANATION OF BENEFITS.—Furnish to enrolled individuals an explanation of benefits in accordance with section 1806(a), and a notice of the balance of benefits remaining for the current year, whenever prescription medicine benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(4) RULES RELATING TO PROVISION OF BENEFITS.—

''(A) IN GENERAL.—In providing benefits under this part, the Secretary (directly or through contracts) shall employ mechanisms to provide benefits economically, including the use of—

''(i) formularies (consistent with subparagraph (B));

''(ii) automatic generic medicine substitution (unless the physician specifies otherwise, in which case a 30-day prescription may be dispensed pending a consultation with the physician on whether a generic substitute can be dispensed in the future);

''(iii) tiered copayments (which may include copayments at a rate lower than 20 percent) to encourage the use of the lowest cost, on-formulary product in cases where there is no restrictive prescription (described in subparagraph (D)(i)); and

''(iv) therapeutic interchange.

''(B) REQUIREMENTS WITH RESPECT TO FORMULARIES.—If a formulary is used to contain costs under this part—

''(i) use an advisory committee (or a therapeutics committee) comprised of licensed practicing physicians, pharmacists, and other health care practitioners to develop and manage the formulary;

''(ii) include in the formulary at least 1 medicine from each therapeutic class and, if available, a generic equivalent thereof; and

''(iii) disclose to current and prospective enrollees and to participating providers and pharmacies, the nature of the formulary restrictions, including information regarding the medicines included in the formulary and any difference in cost-sharing amounts.

''(C) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary (directly or through contracts) from using incentives (including a lower beneficiary coinsurance) to encourage enrollees to select generic or other cost-effective medicines, so long as—

''(i) such incentives are designed not to result in any increase in the aggregate expenditures under the Federal Medicare Prescription Medicine Trust Fund;

''(ii) the average coinsurance charged to all beneficiaries by the Secretary (directly or through contractors) shall seek to approximate (but in no case exceed) 20 percent for on-formulary medicines;

''(iii) a beneficiary's coinsurance shall be no greater than 20 percent if the prescription is a restrictive prescription; and

''(iv) the reimbursement for a prescribed nonformulary medicine without a restrictive prescription in no case shall be more than the lowest reimbursement for a formulary medicine in the therapeutic class of the prescribed medicine.

''(D) RESTRICTIVE PRESCRIPTION.—For purposes of this section:

''(i) WRITTEN PRESCRIPTIONS.—In the case of a written prescription for a medicine, it is a restrictive prescription only if the prescription indicates, in the writing of the physician or other qualified person prescribing the medicine and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular medicine product must be dispensed based upon a belief by the physician or person prescribing the medicine that the particular medicine will provide even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual.

''(ii) TELEPHONE PRESCRIPTIONS.—In the case of a prescription issued by telephone for a medicine, it is a restrictive prescription only if the prescription cannot be longer than 30 days and the physician or other qualified person prescribing the medicine (through use of such an appropriate phrase) states that a particular medicine product must be dispensed, and the physician or other qualified person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation from the physician or other qualified person prescribing the medicine and which indicates with such appropriate phrase that the particular medicine product was required to have been dispensed based upon a belief by the physician or person prescribing the medicine that the particular medicine will provide even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual. Such written confirmation is required to refill the prescription.

''(iii) REVIEW OF RESTRICTIVE PRESCRIPTIONS.—The advisory committee (established under subparagraph (B)(i)) may decide to review a restrictive prescription and, if so, it may approve or disapprove such restrictive prescription. It may not disapprove such restrictive prescription unless it finds that there is no clinical evidence or peer reviewed medical literature that supports a determination that the particular medicine provides even marginally superior therapeutic benefits to the individual for whom the medicine is prescribed or would have marginally fewer adverse reactions with respect to such individual. If it disapproves, upon request of the prescribing physician or the enrollee, the committee must provide for a review by an independent contractor of such decision within 48 hours of the time of submission of the prescription, to determine whether the prescription is an eligible benefit under this part. The Secretary shall ensure that independent contractors so used are completely independent of the contractor or its advisory committee.

''(5) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE.—Have in place effective cost and utilization management, drug utilization review, quality assurance measures, and systems to reduce medical errors, including at least the following, together with such additional measures as the Administrator may specify:

''(A) DRUG UTILIZATION REVIEW.—A drug utilization review program conforming to the standards provided in section 1927(g)(2) (with such modifications as the Administrator finds appropriate).

''(B) FRAUD AND ABUSE CONTROL.—Activities to control fraud, abuse, and waste, including prevention of diversion of pharmaceuticals to the illegal market.

''(C) MEDICATION THERAPY MANAGEMENT.—

''(i) IN GENERAL.—A program of medicine therapy management and medication administration that is designed to assure that covered outpatient medicines are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(ii) ELEMENTS.—Such program may include—

''(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means; and

''(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means.

''(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(iv) CONSIDERATIONS IN PHARMACY FEES.—There shall be taken into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(6) EDUCATION AND INFORMATION ACTIVITIES.—Have in place mechanisms for disseminating educational and informational materials to enrolled individuals and health care providers designed to encourage effective and cost-effective use of prescription medicine benefits and to ensure that enrolled individuals understand their rights and obligations under the program.

''(7) BENEFICIARY PROTECTIONS.—

''(A) CONFIDENTIALITY OF HEALTH INFORMATION.—Have in effect systems to safeguard the confidentiality of health care information on enrolled individuals, which comply with section 1106 and with section 552a of title 5, United States Code, and meet such additional standards as the Administrator may prescribe.

''(B) GRIEVANCE AND APPEAL PROCEDURES.—Have in place such procedures as the Administrator may specify for hearing and resolving grievances and appeals, including expedited appeals, brought by enrolled individuals against the Administrator or a pharmacy concerning benefits under this part, which shall include procedures equivalent to those specified in subsections (f) and (g) of section 1852.

''(8) RECORDS, REPORTS, AND AUDITS.—

''(A) RECORDS AND AUDITS.—Maintain adequate records, and afford the Administrator access to such records (including for audit purposes).

''(B) REPORTS.—Make such reports and submissions of financial and utilization data as the Administrator may require taking into account standard commercial practices.

''(9) PROPOSAL FOR ALTERNATIVE COINSURANCE AMOUNT.—

''(A) SUBMISSION.—The Administrator may provide for increased Government cost-sharing for generic prescription medicines, prescription medicines on a formulary, or prescription medicines obtained through mail order pharmacies.

''(B) CONTENTS.—The proposal submitted under subparagraph (A) shall contain evidence that such increased cost-sharing would not result in an increase in aggregate costs to the Account, including an analysis of differences in projected drug utilization patterns by beneficiaries whose cost-sharing would be reduced under the proposal and those making the cost-sharing payments that would otherwise apply.

''(10) OTHER REQUIREMENTS.—Meet such other requirements as the Secretary may specify.

The Administrator shall negotiate a schedule of prices under paragraph (1)(A), except that nothing in this sentence shall prevent a carrier under a contract with the Administrator from negotiating a lower schedule of prices for covered prescription medicines.

''(c) PHARMACY PARTICIPATION AGREEMENTS.—

''(1) IN GENERAL.—A pharmacy that meets the requirements of this subsection shall be eligible to enter an agreement with the Administrator to furnish covered prescription medicines and pharmacists' services to enrolled individuals.

''(2) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and requirements:

''(A) LICENSING.—The pharmacy and pharmacists shall meet (and throughout the contract period will continue to meet) all applicable State and local licensing requirements.

''(B) LIMITATION ON CHARGES.—Pharmacies participating under this part shall not charge an enrolled individual more than the negotiated price for an individual medicine as established under subsection (b)(1), regardless of whether such individual has attained the benefit limit under section 1860B(b), and shall not charge an enrolled individual more than the individual's share of the negotiated price as determined under the provisions of this part.

''(C) PERFORMANCE STANDARDS.—The pharmacy and the pharmacist shall comply with performance standards relating to—

''(i) measures for quality assurance, reduction of medical errors, and participation in the drug utilization review program described in subsection (b)(3)(A);

''(ii) systems to ensure compliance with the confidentiality standards applicable under subsection (b)(5)(A); and

''(iii) other requirements as the Secretary may impose to ensure integrity, efficiency, and the quality of the program.

''(D) DISCLOSURE OF PRICE OF GENERIC MEDICINE.—A pharmacy participating under this part shall inform an enrollee of the difference in price between generic and nongeneric equivalents.

''(d) SPECIAL ATTENTION TO RURAL AND HARD-TO-SERVE AREAS.—

''(1) IN GENERAL.—The Secretary shall ensure that all beneficiaries have access to the full range of pharmaceuticals under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas (as the Secretary may define by regulation).

''(2) SPECIAL ATTENTION DEFINED.—For purposes of paragraph (1), the term 'special attention' may include bonus payments to retail pharmacists in rural areas and any other actions the Secretary determines are necessary to ensure full access to rural and hard-to-serve beneficiaries.

''(3) GAO REPORT.—Not later than 2 years after the implementation of this part the Comptroller General of the United States shall submit to Congress a report on the access of medicare beneficiaries to pharmaceuticals and pharmacists' services in rural and hard-to-serve areas under this part together with any recommendations of the Comptroller General regarding any additional steps the Secretary may need to take to ensure the access of medicare beneficiaries to pharmaceuticals and pharmacists' services in such areas under this part.

''(e) INCENTIVES FOR COST AND UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT.—The Secretary is authorized to include in a contract awarded under subsection (b) with a carrier such incentives for cost and utilization management and quality improvement as the Secretary may deem appropriate, including—

''(1) bonus and penalty incentives to encourage administrative efficiency;

''(2) incentives under which carriers share in any benefit savings achieved;

''(3) risk-sharing arrangements related to initiatives to encourage savings in benefit payments;

''(4) financial incentives under which savings derived from the substitution of generic medicines in lieu of nongeneric medicines are made available to carriers, pharmacies, and the Prescription Medicine Insurance Account; and

''(5) any other incentive that the Secretary deems appropriate and likely to be effective in managing costs or utilization.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE MEDICINE COVERAGE

''SEC. 1860H. (a) PROGRAM AUTHORITY.—The Secretary shall develop and implement a program under this section called the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription medicine benefits to retired individuals and to maintain such existing benefit programs, by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription medicine plan (as defined in subsection (f)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription medicine plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription medicine benefit under the plan falls below the actuarial value of the insurance benefit under this part.

''(2) OTHER REQUIREMENTS.—The sponsor shall provide such information, and comply with such requirements, including information requirements to ensure the integrity of the program, as the Secretary may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENT.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined as described in paragraph (2), for each retired individual (or spouse) who—

''(A) was covered under the sponsor's qualified retiree prescription medicine plan during such quarter; and

''(B) was eligible for but was not enrolled in the insurance program under this part.

''(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to ⅔ of the monthly premium amount payable from the Prescription Medicine Insurance Account for an enrolled individual, as set for the calendar year pursuant to section 1860D(a)(2).

''(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount equal to $2,000 for each false representation plus an amount not to exceed 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) PART D ENROLLMENT FOR CERTAIN INDIVIDUALS COVERED BY EMPLOYMENT-BASED RETIREE HEALTH COVERAGE PLANS.—

''(1) ELIGIBLE INDIVIDUALS.—An individual shall be given the opportunity to enroll in the program under this part during the period specified in paragraph (2) if—

''(A) the individual declined enrollment in the program under this part at the time the individual first satisfied section 1860C(a);

''(B) at that time, the individual was covered under a qualified retiree prescription medicine plan for which an incentive payment was paid under this section; and

''(C)(i) the sponsor subsequently ceased to offer such plan; or

''(ii) the value of prescription medicine coverage under such plan is reduced below the value of the coverage provided at the time the individual first became eligible to participate in the program under this part.

''(2) SPECIAL ENROLLMENT PERIOD.—An individual described in paragraph (1) shall be eligible to enroll in the program under this

part during the 6-month period beginning on the first day of the month in which—

''(A) the individual receives a notice that coverage under such plan has terminated (in the circumstance described in paragraph (1)(C)(i)) or notice that a claim has been denied because of such a termination; or

''(B) the individual received notice of the change in benefits (in the circumstance described in paragraph (1)(C)(ii)).

''(f) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given to such term by section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION MEDICINE PLAN.—The term 'qualified retiree prescription medicine plan' means health insurance coverage included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription medicines whose actuarial value to each retired beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription medicine benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' by section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

''PROMOTION OF PHARMACEUTICAL RESEARCH ON BREAK-THROUGH MEDICINES WHILE PROVIDING PROGRAM COST CONTAINMENT

''SEC. 1860I. (a) MONITORING EXPENDITURES.—The Secretary shall monitor expenditures under this part. On October 1, 2003, the Secretary shall estimate total expenditures under this part for 2003.

''(b) ESTABLISHMENT OF SUSTAINABLE GROWTH RATE.—

''(1) IN GENERAL.—The Secretary shall establish a sustainable growth rate prescription medicine target system for expenditures under this part for each year after 2003.

''(2) INITIAL COMPUTATION.—Such target shall equal the amount of total expenditures estimated for 2003 adjusted by the Secretary's estimate of a sustainable growth rate (in this section referred to as an 'SGR') percentage between 2003 and 2004. Such SGR shall be estimated based on the following:

''(A) Reasonable changes in the cost of production or price of covered pharmaceuticals, but in no event more than the rate of increase in the Consumer Price Index for all urban consumers for the period involved.

''(B) Population enrolled in this part, both in numbers and in average age and severity of chronic and acute illnesses.

''(C) Appropriate changes in utilization of pharmaceuticals, as determined by the Drug Review Board (established under subsection (c)(3)) and based on best estimates of utilization change if there were no direct-to-consumer advertising or promotions to providers.

''(D) Productivity index of manufacturers and distributors.

''(E) Percentage of products with patent and market exclusivity protection versus products without patent protection and changes in the availability of generic substitutes.

''(F) Such other factors as the Secretary may determine are appropriate.

In no event may the sustainable growth rate exceed 120 percent of the estimated per capita growth in total spending under this title.

''(3) COMPUTATION FOR SUBSEQUENT YEARS.—In October of 2004 and each year thereafter, for purposes of setting the SGRs for the succeeding year, the Secretary shall adjust each current year's estimated expenditures by the estimated SGR for the succeeding year, further adjusted for corrections in earlier estimates and the receipt of additional data on previous years spending as follows:

''(A) ERROR ESTIMATES.—An adjustment (up or down) for errors in the estimate of total expenditures under this part for the previous year.

''(B) COSTS.—An adjustment (up or down) for corrections in the cost of production of prescriptions covered under this part between the current calendar year and the previous year.

''(C) TARGET.—An adjustment for any amount (over or under) that expenditures in the current year under this part are estimated to differ from the target amount set for the year. If expenditures in the current year are estimated to be—

''(i) less than the target amount, future target amounts will be adjusted downward; or

''(ii) more than the target amount, the Secretary shall notify all pharmaceutical manufacturers with sales of pharmaceutical prescription medicine products to medicare beneficiaries under this part, of a rebate requirement (except as provided in this subparagraph) to be deposited in the Federal Medicare Prescription Medicine Trust Fund.

''(D) REBATE DETERMINATION.—The amount of the rebate described in subparagraph (C)(ii) may vary among manufacturers and shall be based on the manufacturer's estimated contribution to the expenditure above the target amount, taking into consideration such factors as—

''(i) above average increases in the cost of the manufacturer's product;

''(ii) increases in utilization due to promotion activities of the manufacturer, wholesaler, or retailer;

''(iii) launch prices of new drugs at the same or higher prices as similar drugs already in the marketplace (so-called 'me too' or 'copy-cat' drugs);

''(iv) the role of the manufacturer in delaying the entry of generic products into the market; and

''(v) such other actions by the manufacturer that the Secretary may determine has contributed to the failure to meet the SGR target.

The rebates shall be established under such subparagraph so that the total amount of the rebates is estimated to ensure that the amount the target for the current year is estimated to be exceeded is recovered in lower spending in the subsequent year; except that, no rebate shall be made in any manufacturer's product which the Food and Drug Administration has determined is a breakthrough medicine (as determined under subsection (c)) or an orphan medicine.

''(c) BREAKTHROUGH MEDICINES.—

''(1) DETERMINATION.—For purposes of this section, a medicine is a 'breakthrough medicine' if the Drug Review Board (established under paragraph (3)) determines—

''(A) it is a new product that will make a significant and major improvement by reducing physical or mental illness, reducing mortality, or reducing disability; and

''(B) that no other product is available to beneficiaries that achieves similar results for the same condition at a lower cost.

''(2) CONDITION.—An exemption from rebates under subsection (b)(3) for a breakthrough medicine shall continue as long as the medicine is certified as a breakthrough medicine but shall be limited to 7 calendar years from 2003 or 7 calendar years from the date of the initial determination under paragraph (1), whichever is later.

''(3) DRUG REVIEW BOARD.—The Drug Review Board under this paragraph shall consist of the Commissioner of Food and Drugs, the Directors of the National Institutes of Health, the Director of the National Science Foundation, and 10 experts in pharmaceuticals, medical research, and clinical care, selected by the Commissioner of Food and Drugs from the faculty of academic medical centers, except that no person who has (or who has an immediate family member that has) any conflict of interest with any pharmaceutical manufacturer shall serve on the Board.

''(d) NO REVIEW.—The Secretary's determination of the rebate amounts under this section, and the Drug Review Board's determination of what is a breakthrough drug, are not subject to administrative or judicial review.

''APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS

''SEC. 1860J. (a) IN GENERAL.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Prescription Medicine Insurance Account, a Government contribution equal to—

''(1) the aggregate premiums payable for a month pursuant to section 1860D(a)(2) by individuals enrolled in the program under this part; plus

''(2) one-half the aggregate premiums payable for a month pursuant to such section for such individuals by former employers; plus

''(3) the benefits payable by reason of the application of paragraph (2) of section 1860B(a) (relating to catastrophic benefits).

''(b) APPROPRIATIONS TO COVER INCENTIVES FOR EMPLOYMENT-BASED RETIREE MEDICINE COVERAGE.—There are authorized to be appropriated to the Prescription Medicine Insurance Account from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for payment of incentive payments under section 1860H(c).

''PRESCRIPTION MEDICINE DEFINED

''SEC. 1860K. As used in this part, the term 'prescription medicine' means—

''(1) a drug that may be dispensed only upon a prescription, and that is described in subparagraph (A)(i), (A)(ii), or (B) of section 1927(k)(2); and

''(2) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act, and needles, syringes, and disposable pumps for the administration of such insulin.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO FEDERAL SUPPLEMENTARY HEALTH INSURANCE TRUST FUND.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(A) in the last sentence of subsection (a)—

(i) by striking ''and'' after ''section 201(i)(1)''; and

(ii) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the Prescription Medicine Insurance Account established by section 1860F'';

(B) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund),'';

(C) in the first sentence of subsection (h), by inserting before the period the following: ''and section 1860D(b)(4) (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund)''; and

(D) in the first sentence of subsection (i)—

(i) by striking ''and'' after ''section 1840(b)(1)''; and

(ii) by inserting before the period the following: '', section 1860D(b)(2) (in which case the payments shall come from the Prescription Medicine Insurance Account in the Supplementary Medical Insurance Trust Fund)''.

(2) PRESCRIPTION MEDICINE OPTION UNDER MEDICARE+CHOICE PLANS.—

(A) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(i) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(ii) in subsection (i)(1), by striking ''parts A and B'' and inserting ''parts A, B, and D''.

(B) VOLUNTARY BENEFICIARY ENROLLMENT FOR MEDICINE COVERAGE.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under that part)'' after ''parts A and B''.

(C) ACCESS TO SERVICES.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

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

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

(iii) by adding at the end the following new subparagraph:

''(F) the plan for prescription medicine benefits under part D guarantees coverage of any specifically named covered prescription medicine for an enrollee, when prescribed by a physician in accordance with the provisions of such part, regardless of whether such medicine would otherwise be covered under an applicable formulary or discount arrangement.''.

(D) PAYMENTS TO ORGANIZATIONS.—Section 1853(a)(1)(A) of such Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(i) by inserting ''determined separately for benefits under parts A and B and under part D (for individuals enrolled under that part)'' after ''as calculated under subsection (c)'';

(ii) by striking ''that area, adjusted for such risk factors'' and inserting ''that area. In the case of payment for benefits under parts A and B, such payment shall be adjusted for such risk factors as''; and

(iii) by inserting before the last sentence the following: ''In the case of the payments for benefits under part D, such payment shall initially be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate. By 2006, the adjustments would be for the same risk factors applicable for benefits under parts A and B.''.

(E) CALCULATION OF ANNUAL MEDICARE +CHOICE CAPITATION RATES.—Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(i) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for benefits under parts A and B'' after ''capitation rate'';

(ii) in paragraph (6)(A), by striking ''rate of growth in expenditures under this title'' and inserting ''rate of growth in expenditures for benefits available under parts A and B''; and

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

''(8) PAYMENT FOR PRESCRIPTION MEDICINES.—The Secretary shall determine a capitation rate for prescription medicines—

''(A) dispensed in 2003, which is based on the projected national per capita costs for prescription medicine benefits under part D and associated claims processing costs for beneficiaries under the original medicare fee-for-service program; and

''(B) dispensed in each subsequent year, which shall be equal to the rate for the previous year updated by the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual enrolled under part D.''.

(F) LIMITATION ON ENROLLEE LIABILITY.—Section 1854(e) of such Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR PROVISION OF PART D BENEFITS.—In no event may a Medicare+Choice organization include as part of a plan for prescription medicine benefits under part D a requirement that an enrollee pay a deductible, or a coinsurance percentage that exceeds 20 percent.''.

(G) REQUIREMENT FOR ADDITIONAL BENEFITS.—Section 1854(f)(1) of such Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: ''Such determination shall be made separately for benefits under parts A and B and for prescription medicine benefits under part D.''.

(3) EXCLUSIONS FROM COVERAGE.—

(A) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(B) PRESCRIPTION MEDICINES NOT EXCLUDED FROM COVERAGE IF APPROPRIATELY PRESCRIBED.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

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

(ii) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

(iii) by adding at the end the following new subparagraph:

''(J) in the case of prescription medicines covered under part D, which are not prescribed in accordance with such part;''.

SEC. 4. SUBSTANTIAL REDUCTIONS IN THE PRICE OF PRESCRIPTION DRUGS FOR MEDICARE BENEFICIARIES.

(a) PARTICIPATING MANUFACTURERS.—

(1) IN GENERAL.—Each participating manufacturer of a covered outpatient drug shall make available for purchase by each pharmacy such covered outpatient drug in the amount described in paragraph (2) at the price described in paragraph (3).

(2) DESCRIPTION OF AMOUNT OF DRUGS.—The amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy is an amount equal to the aggregate amount of the covered outpatient drug sold or distributed by the pharmacy to medicare beneficiaries.

(3) DESCRIPTION OF PRICE.—The price at which a participating manufacturer shall make a covered outpatient drug available for purchase by a pharmacy is the price equal to the lowest of the following:

(A) The lowest price paid for the covered outpatient drug by any agency or department of the United States.

(B) The manufacturer's best price for the covered outpatient drug, as defined in section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)).

(C) The lowest price at which the drug is available (as determined by the Secretary) through importation consistent with the provisions of section 804 of the Federal Food, Drug, and Cosmetic Act.

(b) SPECIAL PROVISION WITH RESPECT TO HOSPICE PROGRAMS.—For purposes of determining the amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy under subsection (a), there shall be included in the calculation of such amount the amount of the covered outpatient drug sold or distributed by a pharmacy to a hospice program. In calculating such amount, only amounts of the covered outpatient drug furnished to a medicare beneficiary enrolled in the hospice program shall be included.

(c) ADMINISTRATION.—The Secretary shall issue such regulations as may be necessary to implement this section.

(d) REPORTS TO CONGRESS REGARDING EFFECTIVENESS OF SECTION.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall report to Congress regarding the effectiveness of this section in—

(A) protecting medicare beneficiaries from discriminatory pricing by drug manufacturers; and

(B) making prescription drugs available to medicare beneficiaries at substantially reduced prices.

(2) CONSULTATION.—In preparing such reports, the Secretary shall consult with public health experts, affected industries, organizations representing consumers and older Americans, and other interested persons.

(3) RECOMMENDATIONS.—The Secretary shall include in such reports any recommendations they consider appropriate for changes in this section to further reduce the cost of covered outpatient drugs to medicare beneficiaries.

(e) DEFINITIONS.—For purposes of this section:

(1) PARTICIPATING MANUFACTURER.—The term ''participating manufacturer'' means any manufacturer of drugs or biologicals that, on or after the date of enactment of this Act, enters into a contract or agreement with the United States for the sale or distribution of covered outpatient drugs to the United States.

(2) COVERED OUTPATIENT DRUG.—The term ''covered outpatient drug'' has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(3) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title, or both.

(4) HOSPICE PROGRAM.—The term ''hospice program'' has the meaning given that term under section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(f) EFFECTIVE DATE.—The Secretary shall implement this section as expeditiously as practicable and in a manner consistent with the obligations of the United States.

SEC. 5. AMENDMENTS TO PROGRAM FOR IMPORTATION OF CERTAIN PRESCRIPTION DRUGS BY PHARMACISTS AND WHOLESALERS.

Section 804 of the Federal Food, Drug, and Cosmetic Act (as added by section 745(c)(2) of Public Law 106–387) is amended—

(1) by striking subsections (e) and (f) and inserting the following subsections:

''(e) TESTING; APPROVED LABELING.—

''(1) TESTING.—Regulations under subsection (a)—

''(A) shall require that testing referred to in paragraphs (6) through (8) of subsection (d) be conducted by the importer of the covered product pursuant to subsection (a), or the manufacturer of the product;

''(B) shall require that, if such tests are conducted by the importer, information needed to authenticate the product being tested be supplied by the manufacturer of such product to the importer; and

''(C) shall provide for the protection of any information supplied by the manufacturer under subparagraph (B) that is a trade secret or commercial or financial information that is privileged or confidential.

''(2) APPROVED LABELING.—For purposes of importing a covered product pursuant to subsection (a), the importer involved may use the labeling approved for the product under section 505, notwithstanding any other provision of law.

''(f) DISCRETION OF SECRETARY REGARDING TESTING.—The Secretary may waive or modify testing requirements described in subsection (d) if, with respect to specific countries or specific distribution chains, the Secretary has entered into agreements or otherwise approved arrangements that the Secretary determines ensure that the covered products involved are not adulterated or in violation of section 505.'';

(2) by striking subsections (h) and (i) and inserting the following subsections:

''(h) PROHIBITED AGREEMENTS; NONDISCRIMINATION.—

''(1) PROHIBITED AGREEMENTS.—No manufacturer of a covered product may enter into a contract or agreement that includes a provision to prevent the sale or distribution of covered products imported pursuant to subsection (a).

''(2) NONDISCRIMINATION.—No manufacturer of a covered product may take actions that discriminate against, or cause other persons to discriminate against, United States pharmacists, wholesalers, or consumers regarding the sale or distribution of covered products.

''(i) STUDY AND REPORT.—

''(1) STUDY.—The Comptroller General of the United States shall conduct a study on the imports permitted under this section, taking into consideration the information received under subsection (a). In conducting such study, the Comptroller General shall—

''(A) evaluate importers' compliance with regulations, determine the number of shipments, if any, permitted under this section that have been determined to be counterfeit, misbranded, or adulterated; and

''(B) consult with the United States Trade Representative and United States Patent and Trademark Office to evaluate the effect of importations permitted under this section on trade and patent rights under Federal law.

''(2) REPORT.—Not later than 5 years after the effective date of final regulations issued pursuant to this section, the Comptroller General of the United States shall prepare and submit to Congress a report containing the study described in paragraph (1).'';

(3) in subsection (k)(2)—

(A) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following subparagraph:

''(A) The term 'discrimination' includes a contract provision, a limitation on supply, or other measure which has the effect of providing United States pharmacists, wholesalers, or consumers access to covered products on terms or conditions that are less favorable than the terms or conditions provided to any foreign purchaser of such products.'';

(4) by striking subsection (m); and

(5) by inserting after subsection (l) the following subsection:

''(m) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each subsequent fiscal year.''.

SEC. 6. REASONABLE PRICE AGREEMENT FOR FEDERALLY FUNDED RESEARCH.

(a) IN GENERAL.—If any Federal agency or any non-profit entity undertakes federally funded health care research and development and is to convey or provide a patent or other exclusive right to use such research and development for a drug or other health care technology, such agency or entity shall not make such conveyance or provide such patent or other right until the person who will receive such conveyance or patent or other right first agrees to a reasonable pricing agreement with the Secretary of Health and Human Services or the Secretary makes a determination that the public interest is served by a waiver of the reasonable pricing agreement provided in accordance with subsection (c).

(b) CONSIDERATION OF COMPETITIVE BIDDING.—In cases where the Federal Government conveys or licenses exclusive rights to federally funded research under subsection (a), consideration shall be given to mechanisms for determining reasonable prices which are based upon a competitive bidding process. When appropriate, the mechanisms should be considered where—

(1) qualified bidders compete on the basis of the lowest prices that will be charged to consumers;

(2) qualified bidders compete on the basis of the least sales revenues before prices are adjusted in accordance with a cost-based reasonable pricing formula;

(3) qualified bidders compete on the basis of the least period of time before prices are adjusted in accordance with a cost-based reasonable pricing formula;

(4) qualified bidders compete on the basis of the shortest period of exclusivity; or

(5) qualified bidders compete under other competitive bidding systems.

Such competitive bidding process may incorporate requirements for minimum levels of expenditures on research, marketing, maximum price, or other factors.

(c) WAIVER.—No waiver shall take effect under subsection (a) before the public is given notice of the proposed waiver and provided a reasonable opportunity to comment on the proposed waiver. A decision to grant a waiver shall set out the Secretary's finding that such a waiver is in the public interest.

SEC. 7. GAO ONGOING STUDIES AND REPORTS ON PROGRAM; MISCELLANEOUS REPORTS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the prescription medicine benefit program under part D of the medicare program under title XVIII of the Social Security Act (as added by section 3 of this Act), including an analysis of each of the following:

(1) The extent to which the administering entities have achieved volume-based discounts similar to the favored price paid by other large purchasers.

(2) Whether access to the benefits under such program are in fact available to all beneficiaries, with special attention given to access for beneficiaries living in rural and hard-to-serve areas.

(3) The success of such program in reducing medication error and adverse medicine reactions and improving quality of care, and whether it is probable that the program has resulted in savings through reduced hospitalizations and morbidity due to medication errors and adverse medicine reactions.

(4) Whether patient medical record confidentiality is being maintained and safeguarded.

(5) Such other issues as the Comptroller General may consider.

(b) REPORTS.—The Comptroller General shall issue such reports on the results of the ongoing study described in subsection (a) as the Comptroller General shall deem appropriate and shall notify Congress on a timely basis of significant problems in the operation of the part D prescription medicine program and the need for legislative adjustments and improvements.

(c) MISCELLANEOUS STUDIES AND REPORTS.—

(1) STUDY ON METHODS TO ENCOURAGE ADDITIONAL RESEARCH ON BREAKTHROUGH PHARMACEUTICALS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall seek the advice of the Secretary of the Treasury on possible tax and trade law changes to encourage increased original research on new pharmaceutical breakthrough products designed to address disease and illness.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include recommended methods to encourage the pharmaceutical industry to devote more resources to research and development of new covered products than it devotes to overhead expenses.

(2) STUDY ON PHARMACEUTICAL SALES PRACTICES AND IMPACT ON COSTS AND QUALITY OF CARE.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the methods used by the pharmaceutical industry to advertise and sell to consumers and educate and sell to providers.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include the estimated direct and indirect costs of the sales methods used, the quality of the information conveyed, and whether such sales efforts leads (or could lead) to inappropriate prescribing. Such report may include legislative and regulatory recommendations to encourage more appropriate education and prescribing practices.

(3) STUDY ON COST OF PHARMACEUTICAL RESEARCH.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the costs of, and needs for, the pharmaceutical research and the role that the taxpayer provides in encouraging such research.

(B) REPORT.—Not later than January 1, 2003, the Secretary shall submit to Congress a report on such study. The report shall include a description of the full-range of taxpayer-assisted programs impacting pharmaceutical research, including tax, trade, government research, and regulatory assistance. The report may also include legislative and regulatory recommendations that are designed to ensure that the taxpayer's investment in pharmaceutical research results in the availability of pharmaceuticals at reasonable prices.

(4) REPORT ON PHARMACEUTICAL PRICES IN MAJOR FOREIGN NATIONS.—Not later than January 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report on the retail price of major pharmaceutical products in various developed nations, compared to prices for the same or similar products in the United States. The report shall include a description of the principal reasons for any price differences that may exist.

SEC. 8. MEDIGAP TRANSITION PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under section 1882 of the Social Security Act on or after January 1, 2003, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

(b) ISSUANCE OF SUBSTITUTE POLICIES IF PRESCRIPTION DRUG COVERAGE IS OBTAINED THROUGH MEDICARE.—

(1) IN GENERAL.—The issuer of a medicare supplemental policy—

(A) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as ''A'', ''B'', ''C'', ''D'', ''E'', ''F'', or ''G'' (under the standards established under subsection (p)(2) of section 1882 of the Social Security Act, 42 U.S.C. 1395ss) and that is offered and is available for issuance to new enrollees by such issuer;

(B) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

(C) may not impose an exclusion of benefits based on a preexisting condition under such policy,

in the case of an individual described in paragraph (2) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

(2) INDIVIDUAL COVERED.—An individual described in this paragraph is an individual who—

(A) enrolls in a prescription drug plan under part D of title XVIII of the Social Security Act; and

(B) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as ''H'', ''I'', or ''J'' under the standards referred to in paragraph (1)(A) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

(3) ENFORCEMENT.—The provisions of paragraph (1) shall be enforced as though they were included in section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)).

(4) DEFINITIONS.—For purposes of this subsection, the term ''medicare supplemental policy'' has the meaning given such term in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)).

By Mr. HARKIN (for himself, Mr. HELMS, Mr. SCHUMER, Mr. HOLLINGS, and Mrs. FEINSTEIN):

S. 926. A bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma; to the Committee on Environment and Public Works.

Mr. HARKIN. Mr. President, the people of Burma continue to suffer at the hands of the world's most brutal military dictatorship which cynically calls itself the State Peace and Development Council, (SPDC). Now more than ever, as a nation committed to internationally-recognized human rights and worker rights, democracy, and freedom, America must heed the call of the International Labor Organization, (ILO), and support stronger, coordinated multilateral actions against Burma's repressive regime. In the face of overwhelming evidence of continued, systematic use of forced labor, including forced child labor in Burma, we must do all we can to deny any material support to the military dictators who rule that country with an iron fist.

Furthermore, there is no clear and tangible evidence that the latest informal, closed-door dialogue between the Burmese generals on one side and Aung San Suu Kyi and the other duly-elected leaders of the pro-democracy movement on the other side is bearing fruit. Therefore, we must demonstrate anew to the Burmese people our recognition of their nightmarish plight as well as our support for their noble struggle to achieve democratic governance.

In 1997, a strong, bipartisan majority of the Congress enacted some sanctions and former President Clinton issued an Executive Order in response to a prolonged pattern of egregious human rights violations in Burma. At the heart of those measures is the existing prohibition on U.S. private companies making new investments in Burma's infrastructure. Many other national governments, as well as scores of city and State governments in the U.S. followed suit and adopted their own sanctions.

Nevertheless, the ruling military junta in Burma has clung to power and continues to blatantly violate internationally-recognized human and worker rights. The 1999 State Department Human Rights Country Report on Burma cited ''credible reports that Burmese Army soldiers have committed rape, forced porterage, and extrajudicial killing.'' It referred to arbitrary arrests and the detention of at least 1300 political prisoners.

The following excerpts from the most recent 2000 State Department Human Rights Country Report paint an even more disturbing reality:

The Burmese Government's extremely poor human rights record and longstanding severe repression of its citizens continued during the year. Citizens continued to live subject at any time and without appeal to the arbitrary and sometimes brutal dictates of the military regime. Citizens did not have the right to change their government. There continued to be credible reports, particularly in ethnic minority areas, that security forces committed serious human rights abuses, including extrajudicial killings and rape. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused prisoners and detainees.

The judiciary is not independent and there is no effective rule of law.

The Government continued to restrict worker rights, ban unions, and use forced labor for public works and for the support of military garrisons. Forced labor, including forced child labor, remains a serious problem. The use of forced labor as porters by the army—with attendant mistreatment, illness, and sometimes death—remain a common practice. In November, 2000 the International Labor Organization ILO Governing Body judged that the Government had not taken effective action to deal with 'widespread and systematic' use of forced labor in the country and, for the first time in its history, called on all ILO members to apply sanctions to Burma. Child labor is also a problem and varies in severity depending on the country's region. Trafficking in persons, particularly in women and girls to Thailand and China, mostly for the purposes of prostitution, remain widespread.

As of September, 2000, the International Committee of the Red Cross had visited more than 35,000 prisoners in at least 30 prisons, including more than 1,800 political prisoners. The ICRC also has begun tackling the problem of the roughly 36,000 persons in forced labor camps.

The Government continued to infringe on citizens' privacy rights, and security forces continued to monitor citizens' movements and communications systematically, to search homes without warrants, and to relocate persons forcibly without just compensation or due process.

The SPDC continued to restrict severely freedom of speech, press assembly, and association. It has pressured many thousands of members to resign from the National League for Democracy, NLD, and closed party offices nationwide. Since 1990 the junta frequently prevented the NLD and other pro-democracy parties from conducting normal political activities. The junta recognizes the NLD as a legal entity; however, it refuses to accept the legal political status of key NLD party leaders, particularly the party's general secretary and 1991 Nobel Laureate, Aung San Suu Kyi, and restrict her activities severely through security measures and threats.

Furthermore, Human Rights Watch/Asia reports that children from ethnic minorities are forced to work under inhumane conditions for the Burmese Army, lacking adequate medical care and sometimes dying from beatings.

Last year, the UN Special Rapporteur on Burma, in a chilling and alarming account, puts the number of child soldiers at 50,000, the highest in the world. Sadly, the children most vulnerable to recruitment into the military are orphans, street children, and the children of ethnic minorities.

The same UN report also discusses the dire state of minorities in Burma who continue to be the targets of violence. Specifically, it details that the most frequently observed human rights violations aimed at minorities include extortion, rape, torture and other forms of physical abuse, forced labor, ''portering'', arbitrary arrests, long-term imprisonment, forcible relocation, and in some cases, extrajudicial executions. It also cites reports of massacres in the Shan state in the months of January, February, and May of 2000.

A 1998 International Labor Organization Commission of Inquiry determined that forced labor in Burma is practiced in a ''widespread and systematic manner, with total disregard for the human dignity, safety, health and basic needs of the people.''

Last August, California District Court Judge Ronald Lew found in one high-profile court case ''ample evidence in the record linking the Burmese Government's use of forced labor to human rights abuses.''

In sum, the Burmese military junta continues to commit such horrific and appalling human rights and worker rights violations that we have no choice but to unite with other nations around the world and take stronger action.

Even though the Burmese military junta has been terrorizing the 48 million people of Burma since it came to power in 1988 and has vowed to destroy the National League for Democracy, NLD, Aung San Suu Kyi, a remarkably courageous leader and very brave woman, manages to stand steadfast,

like a living Statue of Liberty, in her undaunted quest and that of the Burmese people for democracy. We must never forget that she and her NLD colleagues won 392 of 485 seats in a democratic election held in 1990. But they have never been allowed to take office.

Aung San Suu Kyi, the 1991 Nobel Peace Prize winner, and countless others are denied freedom of association, speech and movement on a daily basis. Last summer, she came under renewed threats and intimidation. For example, her vehicle was forced off the road last August by Burmese security forces when she tried to travel outside Rangoon to meet with her NLD colleagues. She sat in her car on the roadside for a week until a midnight raid of 200 riot police forced her back to her home and placed her under house arrest until September 14, 2000. Nevertheless, she tried again on September 21st, but she was prevented from boarding a train. The pathetic excuse from the authorities for abridging her freedom to travel within Burma, on that occasion, was that all tickets had been sold out.

This Congress must answer anew the cry of the Burmese people and their courageous freedom-fighters. That is why I am introducing bipartisan legislation today, along with Senator JESSEE HELMS and several of our colleagues, to ban soaring imports from Burma, most of which are apparel and textiles sold by many brand-name American retailers. I am equally pleased that U.S. Congressman TOM LANTOS from California is introducing the companion bill in the U.S. House of Representatives this week.

Most Americans think that a trade ban with Burma already exists. Nothing could be further from the truth. When I began investigating U.S. trade with Burma last summer in concern with the National Labor Committee, I was chocked and alarmed to discover skyrocketing U.S. apparel and textile imports for example.

Last November I requested cable traffic between the U.S. Embassy in Burma and the U.S. State Department at Foggy Bottom to see exactly what officials in Washington, D.C. knew about soaring imports from Burma. It took nearly four months for me to get this unclassified cable traffic. But now I know why. Its contents are very troubling. It constitutes irrefutable evidence that current U.S. sanctions with Burma are far more apparent than real. They are far more bluster than bite. Consider the fact that the U.S. Government currently provides the Burmese military junta with very easy access to the U.S. apparel market because 95 percent of their exports are under no practical import restrictions at all.

Due to rising imports of apparel and textiles from Burma alone, more than $400 million dollars are now flowing into the coffers of the Burmese military dictatorship. These ruthless military dictators and their drug-trafficking cohorts are spending this hard currency to purchase more guns from China and to buy loyalty among their troops to continue their policy of extreme repression and human cruelty.

In other words, American consumers are unwittingly helping to sustain the repressive military junta's grip on power when buying travel and sports bags, women's underwear, jumpers, shorts, tank tops and towels made in the Burmese gulag. It is outrageous that many brand-name U.S. apparel companies such as FILA, Jordache, and Arrow Golf are making more and more of their clothes in the Burmese gulag where many workers earn as little as 7 cent/hour or $3.23/week and where production is non-stop—24 hours/day and 7 days/week.

Make no mistake about it. U.S. apparel imports from Burma are providing the SPDC with a growing source of critically-needed hard currency because the military dictators directly own or have taken de facto control of production in many apparel and textile factories. They are further enriched by a 5 percent export tax. As I said earlier, this hard currency is used to finance the purchase of new weapons and ammunition from China and elsewhere, thus helping to underwrite the perpetuation of modern-day slavery, forced labor and forced child labor in Burma.

But you don't have to take my work for it. U Maung Maung, the General Secretary of the Federation of Trade Unions in Burma, decried at a recent news conference in Washington, D.C., that ''the practice of purchasing garments made in Burma extends the continued exploitation of my people, including the use of slave labor by the regime, by further delaying the return of democratic government in Burma.'' At grave personal risk, he and other NLD leaders have disclosed the growing importance of exports to America and other foreign markets in helping sustain the Burmese military junta in power.

Some may question whether a ban on Burmese trade, including apparel and textile imports, might not harm American companies and consumers? Nothing could be further from the truth. Currently, U.S. apparel and textile imports from Burma account for less than one-half of one percent of total U.S. apparel and textile imports.

Others may assert that enactment of this legislation would violate WTO rules. Yes, Burma does belong to the WTO. Accordingly, the SPDC would have the standing technically to bring a formal complaint when this legislation is enacted. But our response to such a development should be bring it on. Let the Burmese generals argue before the WTO that they have the right to export products made by forced labor and child slaves and in flagrant violation of other internationally-recognized worker rights. This would clearly bring into focus the folly of writing rules for global trade that don't include enforceable worker rights, thus compelling workers in civilized trading nations to have to compete for their jobs de facto with forced labor in Burma.

America must answer the clarion call of the ILO and take a stronger stand in solidarity with the Burmese people and in defense of universal human rights and worker rights in that besieged nation. A trade ban with Burma will reaffirm the belief of the American people that increased trade with foreign countries must promote respect for human rights and worker rights as well as property rights. It will also signal American readiness to join in a new and stronger course of coordinated, multilateral action that is designed to force the Burmese generals from power once and for all and to satisfy the yearning of the Burmese people for democratic, self-government.

In closing, I also ask unanimous consent that the text of the bill be printed in the RECORD and that four recent editorials from the Washington Post, the New York Times, and the Boston Globe calling attention to the profound and prolonged suffering of the Burmese people and the need for stronger action in the U.S. and around the world also be printed in the RECORD.

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

S. 926

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The International Labor Organization (ILO), invoking an extraordinary constitutional procedure for the first time in its 82-year history, adopted in 2000 a resolution calling on the State Peace and Development Council to take concrete actions to end forced labor in Burma.

(2) In this resolution, the ILO recommended that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the State Peace and Development Council do not abet the system of forced or compulsory labor in that country, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced or compulsory labor.

SEC. 2. UNITED STATES SUPPORT FOR MULTILATERAL ACTION TO END FORCED LABOR AND THE WORST FORMS OF CHILD LABOR IN BURMA.

(a) TRADE BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (2), no article that is produced, manufactured, or grown in Burma may be imported into the United States.

(2) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The State Peace and Development Council in Burma has made measurable and substantial progress in reversing the persistent pattern of gross violations of internationally-recognized human rights and worker rights, including the elimination of forced labor and the worst forms of child labor.

(B) The State Peace and Development Council in Burma has made measurable and

substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners; and

(ii) deepening, accelerating, and bringing to a mutually-acceptable conclusion the dialogue between the State Peace and Development Council (SPDC) and democratic leadership within Burma (including Aung San Suu Kyi and the National League for Democracy (NLD) and leaders of Burma's ethnic peoples).

(C) The State Peace and Development Council in Burma has made measurable and substantial progress toward full cooperation with United States counter-narcotics efforts pursuant to the terms of section 570(a)(1)(B) of Public Law 104–208, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997.

(b) EFFECTIVE DATE.—The provisions of this section shall apply to any article entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

[From the New York Times, May 11, 2001]

MYANMAR'S INCORRIGIBLE LEADERS

A few months ago it looked as if the military junta in Myanmar might ease its repressive rule slightly. The regime was talking with the country's courageous pro-democracy leader, Daw Aung San Suu Kyi, and there even seemed to be a possibility that she would be liberated from the prolonged house arrest the government has enforced. But those hopes have all but vanished. If the Bush administration means to speak out against human rights abuses abroad and pressure governments to treat their citizens humanely, Myanmar would be a fine place to start.

The military leaders of Myanmar, formerly called Burma, are among the world's cruelest violators of human rights. The junta has tortured and executed political opponents, exploited forced labor and condoned a burgeoning traffic in heroin and amphetamines. In the clearest indication that the regime has little intention of reforming, the United Nations special envoy who acted as a catalyst for the talks between the government and Mrs. Aung San Suu Kyi has been denied permission to visit the country since January. Also, an anticipated release of political prisoners has failed to materialize, as has a pledge by the junta that Mrs. Aung San Suu Kyi's party, the National League for Democracy, would be allowed to resume activity.

Earlier this year the junta released 120 mostly youthful members of the party who had been imprisoned the previous year, but it is still believed to be holding as many as 1,700 political prisoners, including 35 people who were elected to Parliament in 1990. Mrs. Aung San Suu Kyi's party won more than three-quarters of the seats in that election, but the junta annulled the results.

The United States and the European Union have cooperated to isolate Myanmar, and in 1997 the Clinton administration banned new American investments there. But some Asian countries have been reluctant to join in sanctions. China, in particular, has helped sustain the junta with military aid. Regrettably, last month Japan broke ranks with a Western-led 12-year ban on non-humanitarian assistance to Myanmar by approving a $29 million grant for a hydroelectric dam.

Last year the International Labor Organization, responding to concerns about forced labor, voted to urge governments and international donors to impose further sanctions on Myanmar. Washington should consider a ban on imports from that nation, including textiles. Myanmar is rapidly increasing apparel exports to the United States. Mrs. Aung San Suu Kyi's allies have argued that the hard-currency earnings primarily benefit the military, not the laborers who make the garments. Washington should certainly be using its influence with Japan and other Asian countries to deter any further non-humanitarian assistance.

[From the Boston Globe, May 7, 2001]

BURMA SANCTIONS' VALUE

When it comes to the military dictatorship ruling Burma, President Bush has an opportunity he should welcome to demonstrate the realism his advisers commend and, simultaneously, a firm commitment to America's democratic ideals.

The Burmese junta stands condemned by much of the world for its horrendous abuse of human rights, its complicity in the trafficking of heroin and methamphetamines, and its thwarting of the democratic government that was elected with 80 percent of the seats in Parliament in Burma's last free election, in 1990.

Currently, there are varying sanctions on the junta. The International Labor Organization, for the first time in its 81-year history, asked its members to sanction the regime for the continuing, brutal imposition of forced labor on Burmese and minority ethnic groups.

There are also European Union sanctions and restrictions imposed by the Clinton administration that prohibit new U.S. investment in Burma and ban senior officials in the regime from obtaining visas to enter the United States.

Although it is far from clear that the junta intends to permit a revival of democracy, there is little doubt that it has engaged in talks with Nobel Peace Prize winner Aung San Suu Kyi—who is held under virtual house arrest in Rangoon—in large part because of the unremitting pressure of sanctions.

As a result of sanctions, the officers in power cannot disguise their bankrupting of what had been one of Asia's most literate and resource-rich countries. Even the junta's principal sponsor for membership in the Association of Southeast Asian Nations, Prime Minister Mahathir Mohammad of Malaysia, has counseled Burma's ruling officers to ease the embarrassment of their fellow ASEAN members by opening a dialogue with Suu Kyi.

In a letter last month to Bush, 35 senators including Edward Kennedy and John Kerry made a strong case for maintaining sanctions, noting that ''the sanctions have been partially responsible for prompting the regime to engage in political dialogue with Aung San Suu Kyi and her supporters.'' The letter also said there is ''strong evidence directly linking members of the regime to'' the trafficking of ''the heroin which plagues our communities.''

Bush should insist that the junta take measurable steps toward the retrieval of democracy in Burma, and not merely for altruistic reasons. Next to the regime in North Korea, the Burmese junta has been Beijing's chummiest ally, permitting China to project its burgeoning power into the Bay of Bengal, to the dismay of India.

Were a democratic government to replace the junta, neighboring Thailand, which is now suffering from an influx of drugs from Burma, would join India and the rest of the region in breathing a sigh of relief.

[From the Washington Post, Nov. 26, 2000]

A REBUKE TO FORCED LABOR

Not in 81 years had the International Labor Organization imposed such sanctions; but Burma is a special case. The ILO, a United Nations arm in which unions, businesses and governments participate, found that the Asian nation also known as Myanmar has so flagrantly violated international norms that sanctions had to be imposed. In particular, its ruling generals were found guilty of encouraging forced and slave labor in ''a culture of fear.''

Burma is a special case in part because its dictators cannot even pretend to reflect the will of their people. In 1990, they permitted a national election. A pro-democracy party headed by Aung San Suu Kyi, daughter of Burma's hero of independence, won four out of five parliamentary seats. But parliament never met; the generals refused to accept the results. Aung San Suu Kyi, who won the Nobel peace prize in 1991, is under house arrest; most of her party colleagues are in prison. The generals grow more corrupt while Burma grows ever poorer.

The ILO sanctions approved last week are, as AFL-CIO president John Sweeney said, ''only a starting point.'' Nations are ''urged to halt any aid, trade or relationship that helps Burmese leaders remain in power,'' he said. The United States already has imposed restrictions on investment, but that hasn't stopped companies such as Unocal from mounting major efforts in the country. Nor has it prevented trade, much of which enriches only the generals.

Companies that do business in Burma now more than ever will have to explain themselves. So will nations that sought to water down the ILO action, including fellow autocracies like Malaysia and China and, more surprisingly, democracies like India and Japan. Those nations, though, found themselves very much in the minority, just as Burma finds itself more isolated than ever.

[From the New York Times, Nov. 19, 2000]

THE RUIN OF MYANMAR

The Southeast Asian nation of Myanmar is a case study in repression and misgovernment. For 12 years a secretive military junta has ground down the liberties and living standards of 50 million people. By banning most contact with the outside world and buying off the leadership of restive ethnic minorities, the junta has deflected serious challenges to its rule, despite the dismal failure of its economic policies and spreading social ills.

The military has ruled Myanmar since 1962, when it was known as Burma. After the violent suppression of democracy movement in 1988, an even more ruthless set of generals took charge. They permitted elections in 1990, then ignored the results when democratic forces led by Daw Aung Sang Suu Kyi won an overwhelming victory. She has spent 6 of the past 11 years under house arrest. Other leaders of her party have been relentlessly persecuted, university students have been relocated from the cities, and unions and civic associations have been prohibited. The junta has banned computer modems, e-mail and the Internet and made it a crime for people to invite foreigners into their homes.

The Times's Blaine Harden recently reported that Myanmar, which a half-century ago had one of Asia's best health care systems and highest literacy rates, is now near the bottom in these and many other measures of development as government spending has been diverted from schools and health care to the military. Most people now live on less than a dollar a day. Drug smuggling and AIDS have grown explosively and threaten to spill over to neighboring countries like China and Thailand.

The United States has led international efforts to isolate Myanmar through economic sanctions, including a ban on new investment. But other Asian countries have been reluctant to apply pressure. China, in particular, has helped sustain the junta through

military aid. But an increasing number of countries are losing patience. Last week the 175-member International Labor Organization took the unusual step of condemning the junta's use of forced labor and invited member countries to impose sanctions. A good start would be restricting trade and investment in areas of the economy that profit from forced labor. Washington too should consider additional steps like encouraging disinvestment by American companies. Myanmar's people deserve international support in their struggle against a destructive tyranny.

By Mr. CORZINE:

S. 927. A bill to amend title 23, United States Code, to provide for a prohibition on use of mobile telephones while operating a motor vehicle; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, today I am introducing a bill, the Mobile Telephone Driving Safety Act of 2001, to enhance highway safety by encouraging States to restrict the use of cell phones while operating a motor vehicle.

The cell phone is an important and valuable type of technology that has grown increasingly popular throughout our nation. But as cell phone use has grown, so has a related problem, the increasing number of traffic accidents caused by drivers who are distracted by cell phone use.

The risks of driving while talking on the phone were made very clear to many Americans when on April 29, 2001 a car containing model Nikki Taylor crashed into a utility pole. The driver of the car admitted that he had been distracted from operating the car when he tried to answer his cellular telephone. That few second distraction was all that was necessary to cause the crash. As a result, Ms. Taylor suffered severe and life-threatening injuries.

Unfortunately, Ms. Taylor's case is just the most visible recent example of a much broader problem. Several studies have established that using a cell phone while driving substantially increases the risk of an accident. One, published in the New England Journal of Medicine, concluded that ''use of cellular telephones in motor vehicles is associated with a quadrupling of the risks of a collision during the brief period of a call''. The study goes on to say ''this relative risk is similar to the hazard associated with driving with a blood alcohol level at the legal limit''.

In response to the growing problem of cell phone use while driving, counties and municipalities around the country, including two municipalities in my own State of New Jersey, have banned the use of cell phones while driving on their roads. Just recently, Governor Pataki of New York endorsed similar statewide legislation. Yet, at this point, no State has actually enacted such a law. Many cite strong industry resistance to explain the failure of state legislatures to act.

While some wireless industry representatives may resist cell phone driving safety legislation, the American people strongly support the idea. A recent poll by Quinnipiac University showed that 87 percent of New York voters support such a ban. This survey echoes the results from other surveys taken nationwide.

In addition to preventing accidents and saving lives, a ban on cell phone use while driving also would help lower the cost of auto insurance. That is especially important to me because I represent a state in which insurance premiums are among the highest in the nation.

The Mobile Telephone Driving Safety Act of 2001 is structured in a manner similar to other Federal laws designed to promote highway safety, such as laws that encourage states to enact tough drunk driving standards. Under the legislation, a portion of Federal highway funds would be withheld from States that do not enact a ban on cell phone use while driving. Initially, this funding could be restored if states act to move into compliance. Later, the highway funding forfeited by one state would be distributed to other states that are in compliance. Experience has shown that the threat of losing highway funding is very effective in ensuring that states comply.

To meet the bill's requirements, States would have to ban cell phone use while driving. However, such a ban need not be absolute. It could include an exception where there are exceptional circumstances, such as the use of a phone to report a disabled vehicle or medical emergency. In addition, if a state makes a determination that the use of ''hands free'' cell phones does not pose a threat to public safety, such use could be exempted from the ban, as well.

This is a necessary bill to keep our streets and highways safe. I urge my colleagues to support this legislation.

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

S. 928. A bill to amend the Age Discrimination in Employment Act of 1967 to require, as a condition of receipt or use of Federal financial assistance, that States waive immunity to suit for certain violations of that Act, and to affirm the availability of certain suits for injunctive relief to ensure compliance with that Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. JEFFORDS. Mr. President, I am pleased to be here today to introduce legislation that will restore to state employees the ability to bring claims of age discrimination against their employers under the Age Discrimination and Employment Act of 1967. The Older Workers Rights Restoration Act of 2001 seeks to provide state employees who allege age discrimination the same procedures and remedies as those afforded to other employees with respect to ADEA.

This legislation is needed to protect older workers like Professor Dan Kimel, who has taught physics Florida State University for nearly 35 years. Professor Kimel testified at a recent hearing before the Senate Health, Education, Labor and Pensions Committee that, despite his years of faithful service, in 1992 he was earning less in real dollars than his starting salary. To add insult to injury, his employer was hiring younger faculty out of graduate schools at salaries that were higher than he and other long-service faculty members were earning. In 1995, Professor Kimel and 34 colleagues brought a claim of age discrimination against the Florida Board of Regents.

Dan Kimel and his colleagues brought their cases under the Age Discrimination and Employment Act of 1967, ADEA. In 1974, Congress amended the ADEA to ensure that state employees, such as Dan Kimel had full protection against age discrimination. I stand before you today because this past year the Supreme Court ruled that Dan Kimel and other affected faculty do not have the right to bring their ADEA claims against their employer. The Court in Kimel v. Florida Board of Regents, held that Congress did not have the power to abrogate state sovereign immunity to individuals under the ADEA. As a result of the decision, state employees, who are victims of age discrimination, no longer have the remedies that are available to individuals who work in the private sector, for local governments or for the federal government. Indeed, unless a state chooses to waive its sovereign immunity or the Equal Employment Opportunity Commission decides to bring a suit, state workers no longer have a federal remedy for their claims of age discrimination. In effect, this decision has transformed older state employees into second class citizens.

For a right without a remedy is no right at all. Employees should not have to lose their right to redress simply because they happen to work for a state government. And a considerable portion of our workforce has been impacted. In Vermont, for example, the State is one of our largest employers. We cannot and should not permit these state workers to lose the right to redress age discrimination.

This legislation will resolve this problem. The Older Workers Rights Restoration Act of 2001 will restore the full protections of the ADEA to Dan Kimel and countless other state employees in federally assisted programs. The legislation will do this by requiring the states to waive their sovereign immunity as a condition of receiving federal funds for their programs or activities. The Older Workers Rights Restoration Act of 2001 follows the framework of many other civil rights laws, including the Civil Rights Restoration Act of 1987. Under this framework, immunity is only waived with regard to the program or activity actually receiving federal funds. States are not obligated to accept such funds; and if they do not they are immune from private ADEA suits. The legislation also

confirms that these employees may bring actions for equitable relief under the ADEA.

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

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. 928

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 ''Older Workers' Rights Restoration Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since 1974, the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) has prohibited States from discriminating in employment on the basis of age. In EEOC v. Wyoming, 460 U.S. 226 (1983), the Supreme Court upheld Congress' constitutional authority to prohibit States from discriminating in employment on the basis of age. The prohibitions of the Age Discrimination in Employment Act of 1967 remain in effect and continue to apply to the States, as the prohibitions have for more than 25 years.

(2) Age discrimination in employment remains a serious problem both nationally and among State agencies, and has invidious effects on its victims, the labor force, and the economy as a whole. For example, age discrimination in employment—

(A) increases the risk of unemployment among older workers, who will as a result be more likely to be dependent on government resources;

(B) prevents the best use of available labor resources;

(C) adversely effects the morale and productivity of older workers; and

(D) perpetuates unwarranted stereotypes about the abilities of older workers.

(3) Private civil suits by the victims of employment discrimination have been a crucial tool for enforcement of the Age Discrimination in Employment Act of 1967 since the enactment of that Act. In Kimel v. Florida Board of Regents, 120 S. Ct. 631 (2000), however, the Supreme Court held that Congress lacks the power under the 14th amendment to the Constitution to abrogate State sovereign immunity to suits by individuals under the Age Discrimination in Employment Act of 1967. The Federal Government has an important interest in ensuring that Federal financial assistance is not used to subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967. Private civil suits are a critical tool for advancing that interest.

(4) As a result of the Kimel decision, although age-based discrimination by State employers remains unlawful, the victims of such discrimination lack important remedies for vindication of their rights that are available to all other employees covered under that Act, including employees in the private sector, local government, and the Federal Government. Unless a State chooses to waive sovereign immunity, or the Equal Employment Opportunity Commission brings an action on their behalf, State employees victimized by violations of the Age Discrimination in Employment Act of 1967 have no adequate Federal remedy for violations of that Act. In the absence of the deterrent effect that such remedies provide, there is a greater likelihood that entities carrying out programs and activities receiving Federal financial assistance will use that assistance to violate that Act, or that the assistance will otherwise subsidize or facilitate violations of that Act.

(5) Federal law has long treated nondiscrimination obligations as a core component of programs or activities that, in whole or part, receive Federal financial assistance. That assistance should not be used, directly or indirectly, to subsidize invidious discrimination. Assuring nondiscrimination in employment is a crucial aspect of assuring nondiscrimination in those programs and activities.

(6) Discrimination on the basis of age in programs or activities receiving Federal financial assistance is, in contexts other than employment, forbidden by the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). Congress determined that it was not necessary for the Age Discrimination Act of 1975 to apply to employment discrimination because the Age Discrimination in Employment Act of 1967 already forbade discrimination in employment by, and authorized suits against, State agencies and other entities that receive Federal financial assistance. In section 1003 of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7), Congress required all State recipients of Federal financial assistance to waive any immunity from suit for discrimination claims arising under the Age Discrimination Act of 1975. The earlier limitation in the Age Discrimination Act of 1975, originally intended only to avoid duplicative coverage and remedies, has in the wake of the Kimel decision become a serious loophole leaving millions of State employees without an important Federal remedy for age discrimination, resulting in the use of Federal financial assistance to subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967.

(7) The Supreme Court has upheld Congress' authority to condition receipt of Federal financial assistance on acceptance by the States or other recipients of conditions regarding or related to the use of that assistance, as in Cannon v. University of Chicago, 441 U.S. 677 (1979). The Court has further recognized that Congress may require a State, as a condition of receipt of Federal financial assistance, to waive the State's sovereign immunity to suits for a violation of Federal law, as in College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999). In the wake of the Kimel decision, in order to assure compliance with, and to provide effective remedies for violations of, the Age Discrimination in Employment Act of 1967 in State programs or activities receiving or using Federal financial assistance, and in order to ensure that Federal financial assistance does not subsidize or facilitate violations of the Age Discrimination in Employment Act of 1967, it is necessary to require such a waiver as a condition of receipt or use of that assistance.

(8) A State's receipt or use of Federal financial assistance in any program or activity of a State will constitute a limited waiver of sovereign immunity under section 7(g) of the Age Discrimination in Employment Act of 1967 (as added by section 4 of this Act). The waiver will not eliminate a State's immunity with respect to programs or activities that do not receive or use Federal financial assistance. The State will waive sovereign immunity only with respect to suits under the Age Discrimination in Employment Act of 1967 brought by employees within the programs or activities that receive or use that assistance. With regard to those programs and activities that are covered by the waiver, the State employees will be accorded only the same remedies that are accorded to other covered employees under the Age Discrimination in Employment Act of 1967.

(9) The Supreme Court has repeatedly held that State sovereign immunity does not bar suits for prospective injunctive relief brought against State officials, as in Ex parte Young, 209 U.S. 123 (1908). Clarification of the language of the Age Discrimination in Employment Act of 1967 will confirm that that Act authorizes such suits. The injunctive relief available in such suits will continue to be no broader than the injunctive relief that was available under that Act before the Kimel decision, and that is available to all other employees under that Act.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide to State employees in programs or activities that receive or use Federal financial assistance the same rights and remedies for practices violating the Age Discrimination in Employment Act of 1967 as are available to other employees under that Act, and that were available to State employees prior to the Supreme Court's decision in Kimel v. Florida Board of Regents, 120 S. Ct. 631 (2000);

(2) to provide that the receipt or use of Federal financial assistance for a program or activity constitutes a State waiver of sovereign immunity from suits by employees within that program or activity for violations of the Age Discrimination in Employment Act of 1967; and

(3) to affirm that suits for injunctive relief are available against State officials in their official capacities for violations of the Age Discrimination in Employment Act of 1967.

SEC. 4. REMEDIES FOR STATE EMPLOYEES.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following:

''(g)(1)(A) A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

''(B) In this paragraph, the term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).

''(2) An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures of subsections (d) and (e), for injunctive relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).''.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of such provision or amendment to another person or circumstance shall not be affected.

SEC. 6. EFFECTIVE DATE.

(a) WAIVER OF SOVEREIGN IMMUNITY.—With respect to a particular program or activity, section 7(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(1)) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(b) SUITS AGAINST OFFICIALS.—Section 7(g)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(2)) applies to any suit pending on or after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I am honored today to join Chairman JEFFORDS and Senator FEINGOLD to introduce the Older Workers' Rights Restoration Act of 2001. Our goal is to restore to older state government workers the right to seek remedies for age discrimination. A recent decision by the Supreme Court took that right away. State workers now have fewer federal protections against age discrimination than other employees in the country. This bill will remedy that injustice.

In 1967, Congress outlawed age discrimination in employment in the private sector by passing the Age Discrimination in Employment Act. In 1974, recognizing that employees of state government agencies were also often subject to pervasive and arbitrary age discrimination, Congress extended the Act to cover state governments. For more than 25 years, state employees were protected from age discrimination, and had the same remedies as all other employees covered by this law.

But in Kimel v. Florida Board of Regents, decided last year, the Supreme Court held that Congress lacked the power to subject states to suits under the federal age discrimination laws. As a result, unless a state agrees to allow suits against its agencies in such cases, state employees cannot seek relief on their own behalf to remedy age discrimination.

In a recent hearing before the Labor Committee, I was privileged to hear the eloquent testimony of Dr. J. Daniel Kimel, the plaintiff in the Supreme Court case. Dr. Kimel has been a professor of physics at Florida State University for 35 years and is paid less than younger faculty. Because of the Supreme Court's ruling, Dr. Kimel has been unable to seek any remedy at all for this age-based salary discrimination.

Large numbers of State employees, those who work for State colleges and universities, State police forces, State departments of transportation, State environmental protection agencies and many other State agencies, lack effective Federal remedies for age discrimination. That result is unfair. These State workers are vulnerable to age discrimination, which wastes valuable talent and adversely affects morale.

No worker should be subject to discriminatory hiring, firing, or other job action based on age or any other characteristic that has nothing to do with job performance. We must act to see that workers are adequately protected against this threat.

The bill that Chairman JEFFORDS, Senator FEINGOLD and I are introducing today is in the best tradition of the nation's civil rights laws. It provides that when a State program receives Federal tax dollars, the program must permit its employees to seek remedies under the Federal age discrimination law. The courts have long recognized that Congress can act to see that Federal funds are not used to subsidize discrimination, and this is what our bill will do. In fact, all of the scholars who testified in our Committee hearing agree that this is an appropriate and constitutional use of Congress' power.

This important bill will help to ensure that all Americans are protected from age discrimination in employment. I urge my colleagues to join me in supporting this needed legislation.

By Mr. HUTCHINSON:

S. 929. A bill to amend the National Labor Relations Act to preserve charitable giving; to the Committee on Health, Education, Labor, and Pensions.

Mr. HUTCHINSON. Mr. President, I rise today to introduce the Preserve Charitable Giving Act. I am proud of this legislation but am profoundly saddened that it has become necessary.

Aggressive union organizing tactics have made this legislation necessary because those tactics have forced many of our nation's largest retailers who allow charities to solicit donations on their premises to also give unions access to their premises for the express purpose of organizing or face a flurry of unfair labor practice charges. When faced with this situation, these retailers are thus forced to deny access to everyone, resulting in a loss of charitable donations. The magnitude of this loss cannot be overstated, as charitable donations raised through Wal*Mart alone are over $127 million annually. This means that there are now fewer hot meals for the hungry, fewer toys for poor children, and less clothing and shelter for the homeless.

This is unacceptable. Companies should not be forced to choose between furthering charity or increasing union membership. The Preserve Charitable Giving Act will clarity the National Labor Relations Act so that retailers who choose to allow access to their premises for charitable solicitations will not also be forced to give access for union organizing purposes. Thus, I ask my colleagues to preserve charitable giving by helping to enact this legislation.

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

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

S. 929

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 ''Preserve Charitable Giving Act''.

SEC. 2. PROPERTY ACCESS.

Section 8(a)(1) of the National Labor Relations Act is amended by adding after ''section 7'' the following: ''*Provided*, That in the case of a published, written, or posted no solicitation or no access rule, an exception for charitable, eleemosynary, or other beneficent purposes shall not be grounds for finding an unfair labor practice''.

By Mr. MCCAIN:

S. 930. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon National Park to secure bonds for capital improvements, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I rise today to introduce legislation that will authorize the Secretary of Interior to develop and implement a bonding program to help finance capital improvement projects at the Grand Canyon National Park in Arizona.

For the past few years, I have worked on legislation to implement a national parks bonding program to benefit the National Parks system by proposing a unique public-private partnership mechanism to finance capital improvements through bond revenues. This legislation has received substantial support by many of the organizations working with the National Parks system. The legislation I am introducing today is similar to the National Parks Capital Improvements Act of 2001, but it specifically authorizes a park-specific bonding program for the Grand Canyon National Park in my home state of Arizona.

This park-specific proposal is similar to actions taken back in the late 1980's to legislate a solution to the air traffic and noise pollution problems affecting the Grand Canyon National Park caused by overflights over the canyon. Congress enacted legislation to require specific measures to mitigate air traffic through the National Parks Overflights Act. Once a framework for the Grand Canyon National Park was established, it became clear that broader legislation was necessary to address similar overflights issues to promote safety and quiet in the entire national parks system.

Much in the same way, I am proposing to allow the Secretary of Interior to utilize the bonding mechanism at the Grand Canyon National Park, in partnership with a supporting organization. Bonding has worked well in other governmental sectors to leverage additional financing for local projects where federal or state resources are not otherwise sufficient or available.

This bonding legislation, as well as the broader national parks bonding bill, would allow the Grand Canyon National Park to utilize up to $2 of its existing fee structure to dedicate to securing bonds to finance capital improvement projects. For example, based on current visitation rates at the Grand Canyon, a $2 surcharge would enable us to raise $100 million from a bond issue amortized over 20 years. That is a significant amount of money which could be used to accomplish many critical park projects. With approximately 1.2 million acres to protect, this type of financial tool would go far to help redress the backlog of needed repairs, maintenance and other

approved projects at the Grand Canyon National Park.

I remain committed to broader legislation to implement a park-wide bonding program. However, I am proposing that we should also consider testing this innovative approach by authorizing its use to help protect one of the nation's largest and most magnificent parks, the Grand Canyon.

I ask unanimous consent to print the text of this bill in the RECORD.

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

S. 930

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 ''Grand Canyon Capital Improvements Act of 2001''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) FUNDRAISING ORGANIZATION.—The term ''fundraising organization'' means an entity authorized to act as a fundraising organization under section 3(a).

(2) MEMORANDUM OF AGREEMENT.—The term ''memorandum of agreement'' means a memorandum of agreement entered into by the Secretary under section 3(a) that contains the terms specified in section 4.

(3) PARK.—The term ''Park'' means the Grand Canyon National Park.

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

SEC. 3. FUNDRAISING ORGANIZATION.

(a) IN GENERAL.—The Secretary may enter into a memorandum of agreement under section 4 with an entity to act as an authorized fundraising organization for the benefit of the Park.

(b) BONDS.—The fundraising organization for the Park shall issue taxable bonds in return for the surcharge or set-aside for the Park collected under section 5.

(c) PROFESSIONAL STANDARDS.—The fundraising organization shall abide by all relevant professional standards regarding the issuance of securities and shall comply with all applicable Federal and State law.

(d) AUDIT.—The fundraising organization shall be subject to an audit by the Secretary.

(e) NO LIABILITY FOR BONDS.—The United States shall not be liable for the security of any bonds issued by the fundraising organization.

SEC. 4. MEMORANDUM OF AGREEMENT.

The fundraising organization shall enter into a memorandum of agreement that specifies—

(1) the amount of the bond issue;

(2) the maturity of the bonds, not to exceed 20 years;

(3) the per capita amount required to amortize the bond issue, provide for the reasonable costs of administration, and maintain a sufficient reserve consistent with industry standards;

(4) the project or projects at the Park that will be funded with the bond proceeds and the specific responsibilities of the Secretary and the fundraising organization with respect to each project; and

(5) procedures for modifications of the agreement with the consent of both parties based on changes in circumstances, including modifications relating to project priorities.

SEC. 5. PARK SURCHARGE OR SET-ASIDE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may authorize the Superintendent of the Park—

(1) to charge and collect a surcharge in an amount not to exceed $2 for each individual otherwise subject to an entrance fee for admission to the Park; or

(2) to set aside not more than $2 for each individual charged the entrance fee.

(b) SURCHARGE IN ADDITION TO ENTRANCE FEES.—The Park surcharge under subsection (a) shall be in addition to any entrance fee collected under—

(1) section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a);

(2) the recreational fee demonstration program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134; 110 Stat. 1321–156; 1321–200; 16 U.S.C. 4601–6a note); or

(3) the national park passport program established under title VI of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5991 et seq.).

(c) LIMITATION.—The total amount charged or set aside under subsection (a) may not exceed $2 for each individual charged an entrance fee.

(d) USE.—A surcharge or set-aside under subsection (a) shall be used by the fundraising organization to—

(1) amortize the bond issue;

(2) provide for the reasonable costs of administration; and

(3) maintain a sufficient reserve consistent with industry standards, as determined by the bond underwriter.

SEC. 6. USE OF BOND PROCEEDS.

(a) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), bond proceeds under this Act may be used for a project for the design, construction, operation, maintenance, repair, or replacement of a facility in the Park.

(2) PROJECT LIMITATIONS.—A project referred to in paragraph (1) shall be consistent with—

(A) the laws governing the National Park System;

(B) any law governing the Park; and

(C) the general management plan for the Park.

(3) PROHIBITION ON USE FOR ADMINISTRATION.—Other than interest as provided in subsection (b), no part of the bond proceeds may be used to defray administrative expenses.

(b) INTEREST ON BOND PROCEEDS.—Any interest earned on bond proceeds may be used by the fundraising organization to—

(1) meet reserve requirements; and

(2) defray reasonable administrative expenses incurred in connection with the management and sale of the bonds.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 2 years after the promulgation of regulations under section 8, the Secretary shall submit to Congress a report on the bond program.

(b) REQUIREMENTS.—The report shall include—

(1) a review of the bond program carried out under this Act at the Park; and

(2) recommendations to Congress on whether to establish a bond program at all units of the National Park System.

SEC. 8. REGULATIONS.

The Secretary, in consultation with the Secretary of Treasury, shall promulgate regulations to carry out this Act.

By Mr. HARKIN (for himself, Mr. SMITH of Oregon, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SCHUMER, Mr. DORGAN, Mr. DAYTON, Mrs. CLINTON, Ms. STABENOW, Mr. KENNEDY, Mr. KOHL, Mr. KERRY, Mr. SARBANES. Mr. WELLSTONE, Mr. DURBIN, and Mrs. BOXER):

S. 932. A bill to amend the Food Security Act of 1985 to establish the conservation security program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today I am introducing the Conservation Security Act of 2001, a bill that represents a fresh bipartisan farmer-friendly approach to farm policy and agricultural conservation. I am pleased to be joined by my colleague Senator GORDAN SMITH from Oregon, as well as Senators DASCHLE, LEAHY, DORGAN, JOHNSON, DAYTON, SCHUMER, CLINTON, STABENOW, KOHL, SARBANES, KERRY, KENNEDY, WELLSTONE, DURBIN, and BOXER.

America's farmers and ranches produce a bountiful, safe, and nourishing food supply, and they also protect our natural resources, environment and wildlife habitat. Farmers and ranches have a long history of stewardship of private lands. They are the key to enhancing conservation of resources for future generations.

Private land conservation became a national priority in the days of the Dust Bowl, leading to the creation in the 1930s of the Soil Conservation Service, (now the Natural Resources Conservation Service), at the Department of Agriculture. With the very foundation of our food supply at risk, the federal government stepped forward with billions of dollars in assistance to help farmers conserve their precious soils.

Since that time, total federal spending on conservation has steadily declined in inflation-adjusted dollars. Funds for lands in production have been especially hard hit. Yet today, agriculture faces a wide range of environmental challenges, from overgrazing and manure management to cropland runoff and air quality impairment. Urban and rural citizens alike are increasingly interested in supporting conservation on agricultural lands.

Farmers and ranchers pride themselves on being good stewards of the land, but they are limited by financial constraints. Every dollar spent on constructing a filter strip or developing a nutrient management plan is a dollar unavailable for other purposes. And even in better times, there is a lot of competition for each dollar in a farm's budget.

Who benefits from conservation on agricultural lands? As much or more than farmers, all of us, depend on the careful stewardship of our air, water, soil and other natural resources. Farmers and ranchers tend not only to their crops and animals, but also to our nation's natural resources.

Since all Americans share in these benefits, it is only right that we contribute to conserving private lands. It

is time to enter into a true conservation partnership with farmers and ranchers to help ensure hat conservation is an integral and permanent part of our agricultural policy nationwide.

In the 1985 farm bill, we required farmers who wanted to participate in USDA farm programs to develop soil conservation plans for their highly erodible land. This provision helped put new conservation plans in place for our most fragile farmlands. In the most recent farm bill, we streamlined conservation programs and established new cost-share and incentive payments for certain practices. These measures have helped enhance the environment and natural resources, but we still have more to do.

The Conservation Security Act of 2001 builds on our past successes and takes a bold step forward in farm and conservation policy.

The Conservation Security Act would establish a universal and voluntary incentive payment program, the Conservation Security Program, to support and encourage conservation activities by farmers and ranchers. Under this program, farmers and ranchers could receive as much as $50,000 a year in conservation payments by entering into 5- to 10-year agreements with USDA and carrying out eligible conservation practices. Moreover, the program is designed to encourage implementation of practices that address local conservation priorities. Payments are based on the number and types of practices and level of conservation carried out on their lands in agricultural production. Farmers and ranchers may choose to implement practices from one or more of the following three tiers of practices.

In Tier I, participating farmers would adopt or maintain basic individual practices, including nutrient management, soil conservation, and wildlife habitat management on part or all of their operation. Tier I plans are for 5-year periods. Based on enrolled acreage, practices and the level of conservation, farmers or ranchers in Tier I would receive annual payments that could reach as much as $20,000. A one-time advance payment could be made of the greater of $1,000 or 20 percent of the annual payment.

Farmers or ranchers in Tier II would implement more extensive conservation practices on their working lands. They could choose from Tier I practices and practices II practices, including controlled rotational grazing, partial field practices like buffers strips and windbreaks, wetland restoration and wildlife habitat enhancement, for a period of 5 to 10 years, at the farmer's discretion. The practices adopted in Tier II must address at least one resource of concern (i.e. water quality, air quality, soil quality, wildlife habitat, etc.) for the entire operation. For adopting or maintaining Tier II practices, farmers or ranchers would receive up to $35,000 a year with access to a one-time advance payment of the greater of $2,000 or 20 percent of the annual payment.

To qualify under Tier III, farmers and ranchers would adopt a comprehensive set of conservation practices on the entire operation. The Practices would address all resources of concern on the operation, including air, land, water and wildlife. For carrying out a Tier III plan of practices, farmers and ranchers would receive up to $50,000 a year with access to a one-time advance payment of the greater of $3,000 or 20 percent of the annual payment.

Again, I emphasize, the Conservation Security Program would be totally voluntary. Farmers and ranchers would decide if they want to participate and to what extent they want to participate. The more conservation they do, the greater the payment. Many farmers are already using many of these practices, but they receive little or no financial support. This legislation changes that by rewarding those farmers and ranchers who have already implemented these practices through payments for maintaining them.

In addition, the Conservation Security Act provides a strong incentive to go beyond the farm's current level of conservation. And it does so in a way that is compatible with our international trade obligations. The payments received under the Conservation Security Program would fit into the ''Green Box'' under the WTO Uruguay Round.

Payments received under the Conservation Security Program are not linked to participation in commodity programs, and farmers don't have to participate in the Conservation Security Program to be eligible for commodity payments. Further, the Conservation Security Act, which focuses on land in production, complements and does not interfere with the existing conservation programs. A farmer or rancher may participate in these programs, including the Conservation Reserve Program, the Wetlands Reserve Program, and the Farmland Protection Program and still participate in the Conservation Security Program. We need to support these and the other conservation programs, but to truly benefit agriculture and address the public's desire to enhance the environment, natural resources and wildlife habitat on agricultural land we must also address conservation needs on land in production.

Farmers and ranchers across our country want to take actions to enhance the environment, but they need financial and technical assistance. The Conservation Security Act provides that needed assistance. Further, the Conservation Security Act was crafted to include opportunities for all producers nationwide, including producers of fruits, vegetables, speciality crops, row crops and livestock to participate in the Conservation Security Program.

Our private lands are a national treasure, and conservation on farm and ranchlands provides environmental benefits that are just as important as the production of abundant and safe food. The Conservation Security Act will help secure the economic future of our farmers and ranchers by providing them the means to increase their income while conserving our natural resources, the environment, and wildlife habitat for today and for future generations.

I thank the Chair.

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. 932

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 ''Conservation Security Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in addition to producing food and fiber, agricultural producers can contribute to the public good by providing improved soil productivity, clean air and water, fish and wildlife habitat, landscape and recreational amenities, and other natural resources and environmental benefits;

(2) agricultural producers in the United States have a long history of embracing environmentally friendly conservation practices and desire to continue those practices and engage in new and additional conservation practices;

(3) agricultural producers that engage in conservation practices—

(A) may not receive economic rewards for implementing conservation practices; and

(B) should be encouraged to engage in good stewardship, and should be rewarded for doing so;

(4) despite significant progress in recent years, significant environmental challenges on agricultural land remain;

(5) since the 1930's, when agricultural conservation became a national priority, Federal resources for conservation assistance have declined over 50 percent, when adjusted for inflation;

(6) existing conservation programs do not provide opportunities for all interested agricultural producers to participate;

(7) a voluntary, incentive-based conservation program open to all agricultural producers that qualify and desire to participate would—

(A) encourage greater improvement of natural resources and the environment;

(B) address the economic implications of conservation practices in a manner consistent with international obligations of the United States;

(C) enable United States farmers and ranchers to produce food for a growing world population; and

(D) encourage conservation practices that provide a public benefit while not infringing on the freedom of an agricultural producer to manage agricultural operations as the agricultural producer chooses;

(8) total farm conservation planning can help producers increase profitability, enhance resource protection, and improve quality of life;

(9) on-farm practices may help deter invasive species that jeopardize native species or impair agricultural land of the United States; and

(10) a conservation program described in paragraph (7) would help achieve a better

balance between Federal payments supporting conservation on land used for agricultural production and Federal payments for the purpose of retiring agricultural land from production.

SEC. 3. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 6—CONSERVATION SECURITY PROGRAM

"SEC. 1240P. DEFINITIONS.

''In this chapter:

''(1) CONSERVATION PRACTICE.—The term 'conservation practice' means a land-based farming technique that—

''(A) requires planning, implementation, management, and maintenance; and

''(B) promotes 1 or more of the purposes described in section 1240Q(a).

''(2) CONSERVATION SECURITY CONTRACT.—The term 'conservation security contract' means a contract described in section 1240Q(e).

''(3) CONSERVATION SECURITY PLAN.—The term 'conservation security plan' means a plan described in section 1240Q(c).

''(4) CONSERVATION SECURITY PROGRAM.—The term 'conservation security program' means the program established under section 1240Q(a).

''(5) NUTRIENT MANAGEMENT.—The term 'nutrient management' means management of the quantity, source, placement, form, and timing of the land application of nutrients on land enrolled in the conservation security program and other additions to soil—

''(A) to achieve or maintain adequate soil fertility for agricultural production; and

''(B) to minimize the potential for loss of environmental quality, including soil, water, fish and wildlife habitat, and air quality impairment.

''(6) RESOURCE OF CONCERN.—The term 'resource of concern' means a conservation priority of the State and locality under section 1240Q(c)(3).

''(7) RESOURCE-CONSERVING CROP.—The term 'resource-conserving crop' means—

''(A) a perennial grass;

''(B) a legume grown for use as forage, seed for planting, or green manure;

''(C) a legume-grass mixture;

''(D) a small grain grown in combination with a grass or legume, whether interseeded or planted in succession; and

''(E) such other plantings, including trees and annual grasses, as the Secretary considers appropriate for a particular area.

''(8) RESOURCE-CONSERVING CROP ROTATION.—The term 'resource-conserving crop rotation' means a crop rotation that—

''(A) includes at least 1 resource-conserving crop;

''(B) reduces erosion;

''(C) improves soil fertility and tilth; and

''(D) interrupts pest cycles.

''(9) RESOURCE MANAGEMENT SYSTEM.—The term 'resource management system' means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of the land and water, as defined in the Natural Resource Conservation Service technical guidance handbooks.

"SEC. 1240Q. CONSERVATION SECURITY PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a conservation security program to assist owners and operators of agricultural operations to promote, as is applicable for each operation—

''(1) conservation of soil, water, energy, and other related resources;

''(2) soil quality protection and improvement;

''(3) water quality protection and improvement;

''(4) air quality protection and improvement;

''(5) soil, plant, or animal health and well-being;

''(6) diversity of flora and fauna;

''(7) on-farm conservation and regeneration of biological resources, including plant and animal germplasm;

''(8) wetland restoration, conservation, and enhancement;

''(9) wildlife habitat management, with special emphasis on species identified by the Natural Heritage Program of the State;

''(10) reduction of greenhouse gas emissions and enhancement of carbon sequestration;

''(11) systems that protect human health and safety;

''(12) environmentally sound management of invasive species; or

''(13) any similar conservation purpose (as determined by the Secretary).

''(b) ELIGIBILITY.—

''(1) ELIGIBLE OWNERS AND OPERATORS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under subsection (h)(6) for the development of conservation security contracts), an owner or operator shall—

''(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

''(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

''(2) ELIGIBLE LAND.—

''(A) IN GENERAL.—Except as provided in subparagraph (C)(iii), private agricultural land (including cropland, rangeland, grassland, and pasture land) that is entirely used as part of the agricultural operation of an owner or operator on the date of enactment of this chapter shall be eligible for enrollment in the conservation security program.

''(B) FORESTED LAND.—Private forested land shall be eligible for enrollment in the conservation security program if the forested land is integrated into the agricultural operation, including land that is used for—

''(i) alleycropping;

''(ii) forest farming;

''(iii) forest buffers;

''(iv) windbreaks;

''(v) silvopasture systems; and

''(vi) such other uses as the Secretary may determine appropriate.

''(C) EXCLUSIONS.—

''(i) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter I shall not be eligible for enrollment in the conservation security program except for land enrolled in partial field conservation practice enrollment options.

''(ii) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands preserve program established under subchapter C of chapter 1 of subtitle D shall not be eligible for enrollment in the conservation security program.

''(iii) TOLERANCE LEVEL.—The Secretary shall promulgate regulations to ensure that land shall not be eligible for enrollment in the conservation security program if the land—

''(I) is initially used for the production of an agricultural commodity after the date of enactment of this chapter; and

''(II) cannot be used for the production of an agricultural commodity without resulting in the loss of soil at a level that exceeds the soil loss tolerance level.

''(c) CONSERVATION SECURITY PLANS.—

''(1) IN GENERAL.—A conservation security plan shall—

''(A) identify the resources and designated land to be conserved under the conservation security plan;

''(B) describe the tier of conservation practices, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term;

''(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract;

''(D) meet the requirements of the highly erodible land and wetland conservation requirements of subtitles B and C; and

''(E) contain such other terms as the Secretary determines to be appropriate.

''(2) COMPREHENSIVE PLANNING.—The Secretary shall encourage owners and operators that enter into conservation security contracts—

''(A) to undertake a comprehensive examination of the opportunities for conserving natural resources and improving the profitability, environmental health, and quality of life in relation to their entire agricultural operations;

''(B) to develop a long-term strategy for implementing, monitoring, and evaluating conservation practices and environmental results in the entire agricultural operation;

''(C) to participate in other Federal, State, local, or private conservation programs;

''(D) to maintain the agricultural integrity of the land; and

''(E) to adopt innovative conservation technologies and management practices.

''(3) STATE AND LOCAL CONSERVATION PRIORITIES.—To the maximum extent practicable and in a manner consistent with the conservation security program, each conservation security plan shall address the conservation priorities of the State and locality in which the agricultural operation is located (as determined by the State conservationist in consultation with the State technical committee established under subtitle G and the local working groups of the State technical committee).

''(d) CONSERVATION PRACTICES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish 3 tiers of conservation practices that are eligible for payment under a conservation security contract.

''(B) ELIGIBLE CONSERVATION PRACTICES.—

''(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices that—

''(I) are necessary to achieve the objectives of the conservation security plan; and

''(II) primarily provide for and have as the primary purpose resource protection and environmental improvement.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In determining the eligibility of a practice described in clause (i), the Secretary shall require the lowest cost alternatives be used to fulfill the objectives of the conservation security plan.

''(II) LIMITATION.—Notwithstanding subclause (I), the adoption of innovative technologies shall, to the maximum extent practicable, not be limited.

''(2) SUSTAINABLE ECONOMIC USES.—With respect to land enrolled in the conservation security program, including all land use adjustment activities specified under Tier II, the Secretary shall permit economic uses of the land that—

''(A) maintain the agricultural nature of land;

''(B) achieve the natural resource and environmental benefits of the plan; and

''(C) are approved as part of the conservation security plan.

''(3) ON-FARM RESEARCH AND DEMONSTRATION.—With respect to land enrolled in the conservation security program that will be maintained using a Tier II or Tier III conservation practice established under paragraph (5), the Secretary may approve a conservation security plan that includes on-farm research and demonstration activities, including innovative approaches to—

''(A) total farm planning;

''(B) total resource management;

''(C) integrated farming systems;

''(D) germplasm conservation and regeneration;

''(E) greenhouse gas reduction and carbon sequestration;

''(F) agro-ecological restoration and wildlife habitat restoration;

''(G) agro-forestry;

''(H) invasive species control;

''(I) energy conservation and management; or

''(J) farm and environmental results monitoring and evaluation.

''(4) USE OF HANDBOOK AND GUIDES.—

''(A) IN GENERAL.—In determining eligible conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices and the field office technical guides of the Natural Resources Conservation Service.

''(B) CONSERVATION PRACTICE STANDARDS.—To the maximum extent practicable, the Secretary shall establish guidance standards for implementation of eligible conservation practices that shall include measurable goals for enhancing and preventing degradation of resources.

''(C) ADJUSTMENTS.—After providing notice and an opportunity for public participation, the Secretary shall make such adjustments to the National Handbook of Conservation Practices as are necessary to carry out this chapter.

''(D) PILOT TESTING.—

''(i) IN GENERAL.—Under any of the 3 tiers of conservation practices established under paragraph (5), the Secretary may approve requests by an owner or operator for pilot testing of new technologies and innovative conservation practices and systems.

''(ii) INCORPORATION INTO STANDARDS.—After evaluation by the Secretary and provision of notice and an opportunity for public participation, the Secretary may incorporate new technologies and innovative conservation practices and systems into the standards for implementation of conservation practices established under paragraph (1)(C).

''(5) TIERS.—To carry out this subsection, the Secretary shall establish the following 3 tiers of conservation practices:

''(A) TIER I.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier I conservation practices shall—

''(I) if applicable, address at least 1 resource of concern to the particular agricultural operation;

''(II) apply to the total agricultural operation or to a particular unit of the agricultural operation;

''(III) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(IV) meet applicable standards for implementation of conservation practices established under paragraph (4);

''(ii) CONSERVATION PRACTICES.—Tier I conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator, 1 or more of the following basic conservation activities:

''(I) Soil conservation, quality, and residue management.

''(II) Nutrient management.

''(III) Pest management.

''(IV) Invasive species management.

''(V) Irrigation water conservation and water quality management.

''(VI) Grazing, pasture, and rangeland management.

''(VII) Fish and wildlife habitat management, with special emphasis on species identified by the Natural Heritage Program of the State or the appropriate State agency.

''(VIII) Fish and wildlife protection and enhancement.

''(IX) Air quality management.

''(X) Energy conservation measures.

''(XI) Biological resource conservation and regeneration.

''(XII) Worker health and safety protection measures.

''(XIII) Animal welfare management.

''(XIV) Plant and animal germplasm conservation, evaluation, and development.

''(XV) Contour farming.

''(XVI) Strip cropping.

''(XVII) Cover cropping.

''(XVIII) Sediment dams.

''(XIX) Recordkeeping.

''(XX) Monitoring and evaluation.

''(XXI) Any other conservation practice that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

''(iii) TIER II PRACTICES.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier I conservation practices may include Tier II conservation practices.

''(B) TIER II.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier II conservation practices shall—

''(I) address at least 1 resource of concern as specified in the conservation security plan covering the total agricultural operation;

''(II) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(III) meet applicable resource management system criteria for the chosen resource of concern of the agricultural operation;

''(ii) CONSERVATION PRACTICES.—Tier II conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator, any of the Tier I conservation practices and 1 or more of the following land use adjustment or protection practices:

''(I) Resource-conserving crop rotations.

''(II) Controlled, rotational grazing.

''(III) Conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops.

''(IV) Partial field conservation practices (including windbreaks, grass waterways, shelter belts, filter strips, riparian buffers, wetland buffers, contour buffer strips, living snow fences, crosswind trap strips, field borders, grass terraces, wildlife corridors, and critical area planting appropriate to the agricultural operation).

''(V) Fish and wildlife habitat protection and restoration.

''(VI) Native grassland and prairie protection and restoration.

''(VII) Wetland protection and restoration.

''(VIII) Agroforestry practices and systems.

''(IX) Any other conservation practice involving modification of the use of land that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

''(C) TIER III.—

''(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier III conservation practices shall—

''(I) address all resources of concern in the total agricultural operation;

''(II) cover both—

''(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

''(bb) conservation practices that are newly implemented under the conservation security contract; and

''(III) meet applicable resource management system criteria;

''(ii) CONSERVATION PRACTICES.—Tier III conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator—

''(I) appropriate Tier I and Tier II conservation practices; and

''(II) development, implementation, and maintenance of a conservation security plan that, over the term of the conservation security contract—

''(aa) integrates a full complement of conservation practices to foster environmental enhancement and the long-term sustainability of the natural resource base of an agricultural operation; and

''(bb) improves profitability and quality of life associated with the agricultural operation.

''(e) CONSERVATION SECURITY CONTRACTS.—

''(1) IN GENERAL.—On approval of a conservation security plan of an owner or operator, the Secretary shall enter into a conservation security contract with the owner or operator to enroll the land covered by the conservation security plan in the conservation security program.

''(2) TERM.—Subject to paragraphs (3) and (4)—

''(A) a conservation security contract for land enrolled in the conservation security program that will be maintained using 1 or more Tier I conservation practices shall have a term of 5 years; and

''(B) a conservation security contract for land enrolled in the conservation security program that implements a conservation security plan that meets the requirements of subparagraph (B) or (C) of subsection (d)(5) shall have a term of 5 to 10 years, at the option of the owner or operator.

''(3) MODIFICATIONS.—

''(A) OPTIONAL MODIFICATIONS.—

''(i) IN GENERAL.—An owner or operator may apply to the Secretary to modify the conservation security plan in a manner consistent with the purposes of the conservation security program.

''(ii) APPROVAL BY THE SECRETARY.—Any modification under clause (i)—

''(I) shall be approved by the Secretary; and

''(II) shall authorize the Secretary to redetermine, if necessary, the amount and timing of the payments pursuant to the conservation security contract under subsection (h)(2)(C).

''(B) OTHER MODIFICATIONS.—

''(i) IN GENERAL.—The Secretary may in writing require an owner or operator to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management,

or other aspect of the agricultural operation of the owner or operator would, without the modification, significantly interfere with achieving the purposes of the conservation security program.

''(ii) PAYMENTS.—The Secretary may adjust the amount and timing of the payment schedule under the conservation security contract to reflect any modifications required under this subparagraph.

''(iii) DEADLINE.—The Secretary may terminate a conservation security contract if a modification required under this subparagraph is not submitted to the Secretary in the form of an amended conservation security contract by the date that is 90 days after the date of receipt of the written request for the modification.

''(iv) TERMINATION.—An owner or operator that is required to modify a conservation security contract under this subparagraph may, in lieu of modifying the contract—

''(I) terminate the conservation security contract; and

''(II) retain payments received under the conservation security contract, if the owner or operator fully complied with the obligations of the owner or operator under the conservation security contract.

''(4) RENEWAL.—

''(A) IN GENERAL.—At the option of an owner or operator, the conservation security contract of the owner or operator may be renewed, for a term described in subparagraph (B), if—

''(i) the owner or operator agrees to any modification of the applicable conservation security contract that the Secretary determines to be necessary to achieve the purposes of the conservation security program;

''(ii) the Secretary determines that the owner or operator has complied with the terms and conditions of the conservation security contract, including the conservation security plan; and

''(iii) in the case of a conservation security contract for land previously enrolled at the tier I level in the conservation security program, the owner or operator shall increase the level of conservation treatment on lands enrolled in the conservation security program by—

''(I) adopting new conservation practices; or

''(II)expanding existing practices to meet the resource management systems criteria.

''(B) TERMS OF RENEWAL.—Under subparagraph (A)—

''(i) a conservation security contract for land enrolled in the conservation security program that will be maintained using a Tier I conservation practice may be renewed for 5-year terms;

''(ii) a conservation security contract for land enrolled in the conservation security program that will be maintained using a Tier II or Tier III conservation practice may be renewed for 5-year to 10-year terms, at the option of the owner or operator; and

''(iii) previous participation in the conservation security program does not bar renewal more than once.

''(f) NO VIOLATION FOR NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE OWNER OR OPERATOR.—The Secretary shall include in the conservation security contract a provision, and may modify a conservation security contract under subsection (e)(3)(B), to ensure that an owner or operator shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the owner or operator, including a disaster or related condition.

''(g) DUTIES OF OWNERS AND OPERATORS.—Under a conservation security contract, an owner or operator shall agree, during the term specified under the conservation security contract—

''(1) to implement the applicable conservation security plan approved by the Secretary;

''(2) to keep appropriate records showing the effective and timely implementation of the conservation security plan;

''(3) not to engage in any activity that would interfere with the purposes of the conservation security plan;

''(4) at the option of the Secretary, to refund all or a portion of the payments to the Secretary if the owner or operator fails to maintain a conservation practice, as specified in the conservation security contract; and

''(5) on the violation of a term or condition of the conservation security contract—

''(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

''(i) to forfeit all rights to receive payments under the conservation security contract; and

''(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the conservation security contract, including an advance payment and interest on the payments, as determined by the Secretary; or

''(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate.

''(h) DUTIES OF THE SECRETARY.—

''(1) ADVANCE PAYMENT.—At the time at which a person enters into a conservation security contract, the Secretary shall make an advance payment to the person in an amount not to exceed—

''(A) in the case of a contract to maintain Tier I conservation practices described in subsection (d)(5)(A), the greater of—

''(i) $1,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary;

''(B) in the case of a contract to maintain Tier II conservation practices described in subsection (d)(5)(B), the greater of—

''(i) $2,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary; or

''(C) in the case of a contract to maintain Tier III conservation practices described in subsection (d)(5)(C), the greater of—

''(i) $3,000; or

''(ii) 20 percent of the value of the annual payment under the contract, as determined by the Secretary.

''(2) ANNUAL PAYMENTS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (F), under a conservation security contract, the Secretary shall, in amounts and for a period of years specified in the conservation security contract and taking into account any advance payments, make an annual payment to the person in an amount not to exceed—

''(i) in the case of a contract to maintain Tier I conservation practices described in subsection (d)(5)(A), $20,000;

''(ii) in the case of a contract to maintain Tier II conservation practices described in subsection (d)(5)(B), $35,000; or

''(iii) in the case of a contract to maintain Tier III conservation practices described in subsection (d)(5)(C), $50,000.

''(B) INFLATION ADJUSTMENT.—The Secretary may periodically, including at the time at which a conservation security contract is renewed, adjust the payment and payment limitations under subparagraph (A) to reflect changes in the Prices Paid by Farmers Index.

''(C) TIME OF PAYMENT.—The Secretary shall provide payment under a conservation security contract as soon as practicable after October 1 of each calendar year.

''(D) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.—Subject to subparagraphs (A) and (F), the Secretary shall establish criteria for determining the amount of an annual payment to a person under this paragraph that—

''(i) shall be as objective and transparent as practicable; and

''(ii) shall be based on—

''(I) to the maximum extent practicable, outcome-based factors related to the natural resource and environmental benefits that result from the adoption, maintenance, and improvement in implementation of the conservation practices carried out by the person;

''(II) practice-based factors, including—

''(aa) the number of eligible practices established or maintained;

''(bb) the schedule for the conservation practices described in subsection (c)(1)(C);

''(cc) the cost of the adoption, maintenance, and improvement in implementation of conservation practices that are newly implemented under the conservation security contract;

''(dd) the extent to which compensation will ensure maintenance and improvement of conservation practices that are or have been implemented;

''(ee) the extent to which the conservation security plan meets applicable resource management system standards;

''(ff) the extent to which the conservation security plan addresses State and local conservation priorities as provided for under subsection (c)(3); and

''(gg) the extent of activities undertaken beyond what is required to comply with any applicable Federal agricultural law;

''(III) additional cost factors, including—

''(aa) the income loss or economic value forgone by the person due to land use adjustments resulting from the adoption, maintenance, and improvement of conservation practices;

''(bb) the costs associated with any on-farm research, demonstration, or pilot testing components of the conservation security plan; and

''(cc) the costs associated with monitoring and evaluating results under the conservation security plan; and

''(IV) such other factors as the Secretary determines to be appropriate to encourage participation in the conservation security program and to reward environmental stewardship.

''(E) BONUS PAYMENT.—Subject to subparagraph (A), the Secretary shall offer bonus payments based on—

''(i) participation in a watershed or regional resource conservation plan involving at least 75 percent of landowners in the targeted area; and

''(ii) the special considerations associated with an owner or operator that is a qualified beginning farmer or rancher (as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))).

''(F) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, if an owner or operator has land enrolled in another conservation program administered by the Secretary and has applied to enroll the same land in the conservation security program, the owner or operator may elect to—

''(I) convert the contract under the other conservation program to a conservation security contract, without penalty, except

that this subclause shall not apply to a long-term permanent conservation or easement; or

''(II) have each annual payment to the owner or operator under this paragraph reduced to reflect payment for practices the owner or operator receives under the other conservation program, except that the annual payment under this paragraph may include incentives for qualified practices that enhance or extend the conservation benefit achieved under the other conservation program.

''(ii) PAYMENT LIMITATIONS.—If an owner or operator has identical land enrolled in the conservation security program and 1 or more other conservation programs administered by the Secretary, the Secretary shall include all payments, other than easement or rental payments, from the conservation security program and the other conservation programs in applying the annual payment limitations under subparagraph (A).

''(iii) PAYMENT FROM NON-FEDERAL AGRICULTURAL PROGRAMS.—Payments received from a Federal program administered by the Secretary, or any State, local, or private agricultural program, shall not be considered an annual payment for purposes of the annual payment limitations under subparagraph (A).

''(G) WASTE STORAGE OR TREATMENT FACILITIES.—An annual payment to an owner or operator under this paragraph shall not be provided for the purpose of construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall issue regulations—

''(i) defining the term 'person' for the purposes of this chapter—

''(I) which regulations shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001; and

''(II) which term shall be defined so that no individual directly or indirectly may receive payments exceeding the applicable amount specified in paragraph (1) or (2);

''(ii) providing adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis; and

''(iii) prescribing such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under paragraphs (1) and (2).

''(B) PENALTIES FOR SCHEMES OR DEVICES.—

''(i) IN GENERAL.—If the Secretary determines that a person has adopted a scheme or device to evade, or that has the purpose of evading, the regulations issued under subparagraph (A), the person shall be ineligible to participate in the conservation security program for the year for which the scheme or device was adopted and each of the following 5 years.

''(ii) FRAUD.—If the Secretary determines that fraud was committed in connection with the scheme or device, the person shall be ineligible to participate in the conservation security program for the year for which the scheme or device was adopted and each of the following 10 years.

''(4) TERMINATION.—

''(A) IN GENERAL.—Subject to subsection (g), the Secretary shall allow an owner or operator to terminate the conservation security contract.

''(B) PAYMENTS.—The owner or operator may retain any or all payments received under a terminated conservation security contract if—

''(i) the owner or operator is in full compliance with the terms and conditions, including any maintenance requirements, of the conservation security contract; and

''(ii) the Secretary determines that retention of payment will not defeat the goals enumerated in the conservation security plan of the owner or operator.

''(5) TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the transfer, or change in the interest, of an owner or operator in land subject to a conservation security contract shall result in the termination of the conservation security contract.

''(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to the transferee.

''(6) TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to provide technical assistance to owners and operators for the development and implementation of conservation security contracts.

''(B) TECHNICAL ASSISTANCE PROVIDED BY PERSONS NOT EMPLOYED BY THE DEPARTMENT OF AGRICULTURE.—

''(i) IN GENERAL.—Under subparagraph (A), subject to clause (ii), technical assistance provided by qualified persons not employed by the Department of Agriculture, including farmers, ranchers, and local conservation district personnel, may include—

''(I) conservation planning;

''(II) design, installation, and certification of conservation practices;

''(III) training for producers; and

''(IV) such other activities as the Secretary determines to be appropriate.

''(ii) OUTSIDE ASSISTANCE.—

''(I) IN GENERAL.—The Secretary may contract directly with qualified persons not employed by the Department of Agriculture to provide technical assistance.

''(II) PAYMENT BY SECRETARY.—The Secretary may provide a payment or voucher to an owner or operator enrolled in the conservation security program if the owner or operator chooses to contract with qualified persons not employed by the Department of Agriculture.

''(iii) COORDINATION BY THE SECRETARY.—The Secretary shall provide overall technical coordination and leadership for the conservation security program, including final approval of all conservation security plans.

''(7) EDUCATION, OUTREACH, MONITORING, AND EVALUATION.—

''(A) IN GENERAL.—

''(i) FUNDING.—In addition to the amounts made available under paragraph (6), for each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to carry out education, outreach, monitoring, and evaluation activities in support of the conservation security program, of which not less than 50 percent of the sums shall be used for monitoring and evaluation activities.

''(ii) AMOUNT.—For each fiscal year, the amount made available under clause (i) shall be not less than 40 percent of the amount made available for technical assistance under paragraph (6) for the fiscal year.

''(B) USE OF PERSONS NOT AFFILIATED WITH DEPARTMENT OF AGRICULTURE.—

''(i) IN GENERAL.—In carrying out activities described in subparagraph (A), the Secretary may use persons not employed by the Department of Agriculture, including networks of agricultural producers operating in a small watershed, local conservation district personnel, or other appropriate local entity.

''(ii) EDUCATION, OUTREACH, AND MONITORING.—The Secretary may contract with private non-profit, community-based organizations, and educational institutions with demonstrated experience in providing education, outreach, monitoring, evaluation, or related services to agricultural producers (including owners and operators of small and medium-size farms, socially disadvantaged agricultural producers, and limited resource agricultural producers).

''(C) INCLUDED ACTIVITIES.—Activities described in subparagraph (A) may include innovative uses of computer technology and remote sensing to monitor and evaluate resource and environmental results on a local, regional, or national level.

''(8) SOCIALLY DISADVANTAGED AND LIMITED RESOURCE OWNERS AND OPERATORS.—The Secretary shall provide outreach, training, and technical assistance specifically to encourage and assist socially disadvantaged owners and operators to participate in the conservation security program.

''(9) PROGRAM EVALUATION.—The Secretary shall maintain data concerning conservation security plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under this section.

''(10) CONFIDENTIALITY.—To maintain confidentiality, the Secretary shall not release or disclose publicly the conservation security plan of an owner or operator under this chapter unless the Secretary—

''(A) obtains the authorization of the owner or operator for the release or disclosure;

''(B) releases the information in an anonymous or aggregated form; or

''(C)(i) is otherwise required by law to release or disclose the plan and;

''(ii) releases the plan in an anonymous or aggregated form.

''(11) MEDIATION AND INFORMAL HEARINGS.—If the Secretary makes a decision under this chapter that is adverse to an owner or operator, at the request of the owner or operator, the Secretary shall provide the owner or operator with mediation services or an informal hearing on the decision.

''(i) REPORTS.—Not later than 18 months after the date of enactment of this chapter and at the end of each 2-year period thereafter, the Secretary shall submit to Congress a report evaluating the results of the conservation security program, including—

''(1) an evaluation of the scope, quality, and outcomes of the conservation practices carried out under this section; and

''(2) recommendations for achieving specific and quantifiable improvements for each of the purposes specified in subsection (a).

''(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this chapter such sums as are necessary, to remain available until expended.

''(k) EXEMPTION FROM AUTOMATIC SEQUESTER.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under this chapter.''.

(b) ADMINISTRATION.—Section 1243(a) of the Food Security Act of 1985 (16 U.S.C. 3843(a)) is amended—

(1) in paragraph (1)(C), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the conservation security program established under chapter 6 of subtitle D.''.

(c) STATE TECHNICAL COMMITTEES.—Section 1262(c)(8) of the Food Security Act of 1985 (16 U.S.C. 3862(c)(8)) is amended by striking ''chapter 4'' and inserting ''chapters 4 and 6''.

SEC. 4. REGULATIONS.

The Secretary of Agriculture shall promulgate such regulations as are necessary to carry out this Act and the amendments made by this Act.

By Mr. JEFFORDS (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 933. A bill to amend the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I rise today to introduce, with Senators CLINTON, LEAHY, LIEBERMAN, and SCHUMER, the Combined Heat and Power Advancement Act of 2001. This legislation ensures that highly efficient sources of electricity, such as combined heat and power systems, are able to interconnect nationwide with the electricity grid by establishing uniform and nondiscriminatory interconnection standards. Enabling these innovative, clean, and efficient technologies to come online will reduce energy costs and help protect public health and the environment.

Last week, President bush released the National Energy Policy Development Group's comprehensive energy plan. I am pleased this plan includes recommendations related to increasing energy conservation and efficiency. Specially, the plan recommends the development of well-designed combined heat and power, CHP, systems.

I am heartened that President Bush recognizes the positive impact that CHP systems can have on our nation's energy needs. These innovative systems produce both electricity and steam from a single fuel source in a facility located near the consumer. By recovering and utilizing waste heat, these systems save fuel that would otherwise be needed to produce heat or steam in a separate unit. CHP systems can reach energy efficiency levels in excess of 80 percent. This is well above the 33 percent average for conventional electrical generation technologies. In short, the U.S. can obtain more than twice the power from the same amount of energy by widely implementing combined heat and power technologies and applications.

Unfortunately, several regulatory and policy barriers block the widespread use of these innovative technologies. The bill would ensure that CHP systems and other innovative technologies can interconnect with a local distribution utility and that the costs of such interconnections shall be just reasonable, and not unduly discriminatory.

Currently, there are roughly 50 Gigawatts, GW, of energy produced from CHP systems annually. If this barrier is removed, 50 GW of additional CHP electrical generating capacity could be brought to market by 2010. To illustrate the magnitude of potential savings to the entire nation, the result of this additional capacity is equal to all the energy needed to power Massachusetts. Most of these systems are targeted for industry, where thermal and electrical needs are most often located close together. However, there is also tremendous potential for CHP in homes. Fifty GW of CHP could light and heat 50 million homes, or 43 percent of all U.S. homes, for the same energy that the central station plans could only light the homes. With removal of regulatory barriers, these efficient systems may begin to be economical at the small sizes suitable for homes.

We cannot solve today's energy problems with yesterday's solutions. CHP represents an innovative approach to expanding energy supply by maximizing energy efficiency. These systems will encourage technological innovations, reduce energy prices, spur economic development, enhance productivity, increase employment, improve environmental quality, and advance energy security and reliability in the United States.

I invite my colleagues to join me in my efforts to promote combined heat and power by co-sponsoring this important legislation. I ask 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. 933

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 ''Combined Heat and Power Advancement Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the removal of barriers to the development and deployment of combined heat and power technologies and systems, an example of an array of innovative energy-supply and energy-efficient technologies and systems, would—

(A) encourage technological innovation;

(B) reduce energy prices;

(C) spur economic development;

(D) enhance productivity;

(E) increase employment; and

(F) improve environmental quality and energy self-sufficiency;

(2) the level of efficiency of the United States electricity-generating system has been stagnant over the past several decades;

(3) technologies and systems available as of the date of enactment of this Act, including a host of innovative onsite, distributed generation technologies, could—

(A) dramatically increase productivity;

(B) double the efficiency of the United States electricity-generating system; and

(C) reduce emissions of regulated pollutants and greenhouse gases;

(4) innovative electric technologies emit a much lower level of pollutants as compared to the average quantity of pollutants generated by United States electric generating plants as of the date of enactment of this Act;

(5) a significant proportion of the United States energy infrastructure will need to be replaced by 2010;

(6) the public interest would best be served if that infrastructure were replaced by innovative technologies that dramatically increase productivity, improve efficiency, and reduce pollution;

(7) financing and regulatory practices in effect as of the date of enactment of this Act do not recognize the environmental and economic benefits to be obtained from the avoidance of transmission and distribution losses, and the reduced load on the electricity-generating system, provided by onsite, combined heat and power production;

(8) many legal, regulatory, informational, and perceptual barriers block the development and dissemination of combined heat and power and other innovative energy technologies; and

(9) because of those barriers, United States taxpayers are not receiving the benefits of the substantial research and development investment in innovative energy technologies made by the Federal Government.

SEC. 3. PURPOSE.

The purpose of this Act is to encourage energy productivity and efficiency increases by removing barriers to the development and deployment of combined heat and power technologies and systems.

SEC. 4. INTERCONNECTION.

(a) DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraph (23) and inserting the following:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any entity (notwithstanding section 201(f)) that owns, controls, or operates an electric power transmission facility that is used for the sale of electric energy.''; and

(2) by adding at the end the following:

''(26) APPROPRIATE REGULATORY AUTHORITY.—The term 'appropriate regulatory authority' means—

''(A) the Commission;

''(B) a State commission;

''(C) a municipality; or

''(D) a cooperative that is self-regulating under State law and is not a public utility.

''(27) GENERATING FACILITY.—The term 'generating facility' means a facility that generates electric energy.

''(28) LOCAL DISTRIBUTION UTILITY.—The term 'local distribution utility' means an entity that owns, controls, or operates an electric power distribution facility that is used for the sale of electric energy.

''(29) NON-FEDERAL REGULATORY AUTHORITY.—The term 'non-Federal regulatory authority' means an appropriate regulatory authority other than the Commission.''.

(b) INTERCONNECTION TO DISTRIBUTION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

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

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

''(e) INTERCONNECTION TO DISTRIBUTION FACILITIES.—

''(1) INTERCONNECTION.—

''(A) IN GENERAL.—A local distribution utility shall interconnect a generating facility with the distribution facilities of the local distribution utility if the owner of the generating facility—

''(i) complies with the final rule promulgated under paragraph (2); and

''(ii) pays the costs of the interconnection.

''(B) COSTS.—The costs of the interconnection—

''(i) shall be just and reasonable, and not unduly discriminatory, as determined by the appropriate regulatory authority; and

''(ii) shall be comparable to the costs charged by the local distribution utility for interconnection by any similarly situated

generating facility to the distribution facilities of the local distribution utility.

''(C) APPLICABLE REQUIREMENTS.—The right of a generating facility to interconnect under subparagraph (A) does not—

''(i) relieve the generating facility or the local distribution utility of other Federal, State, or local requirements; or

''(ii) provide the generating facility with transmission or distribution service.

''(2) RULE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the Commission shall promulgate a final rule to establish reasonable and appropriate technical standards for the interconnection of a generating facility with the distribution facilities of a local distribution utility.

''(B) PROCESS.—To the extent feasible, the Commission shall develop the standards through a process involving interested parties.

''(C) ADVISORY COMMITTEE.—The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission concerning development of the standards.

''(D) ADMINISTRATION.—

''(i) BY A NON-FEDERAL REGULATORY AUTHORITY.—Except where subject to the jurisdiction of the Commission pursuant to provisions other than clause (ii), a non-Federal regulatory authority may administer and enforce the rule promulgated under subparagraph (A).

''(ii) BY THE COMMISSION.—To the extent that a non-Federal regulatory authority does not administer and enforce the rule, the Commission shall administer and enforce the rule with respect to interconnection in that jurisdiction.

''(3) RIGHT TO BACKUP POWER.—

''(A) IN GENERAL.—In accordance with subparagraph (B), a local distribution utility shall offer to sell backup power to a generating facility that has interconnected with the local distribution utility to the extent that the local distribution utility—

''(i) is not subject to an order of a non-Federal regulatory authority to provide open access to the distribution facilities of the local distribution utility;

''(ii) has not offered to provide open access to the distribution facilities of the local distribution utility; or

''(iii) does not allow a generating facility to purchase backup power from another entity using the distribution facilities of the local distribution utility.

''(B) RATES, TERMS, AND CONDITIONS.—A sale of backup power under subparagraph (A) shall be at such a rate, and under such terms and conditions, as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) NO REQUIREMENT FOR CERTAIN SALES.—A local distribution utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) NEW OR EXPANDED LOADS.—To the extent backup power is used to serve a new or expanded load on the distribution system, the generating facility shall pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide such service.''.

(c) INTERCONNECTION TO TRANSMISSION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended by inserting after subsection (e) (as added by subsection (b)) the following:

''(f) INTERCONNECTION TO TRANSMISSION FACILITIES.—

''(1) INTERCONNECTION.—

''(A) IN GENERAL.—Notwithstanding subsections (a) and (c), a transmitting utility shall interconnect a generating facility with the transmission facilities of the transmitting utility if the owner of the generating facility—

''(i) complies with the final rule promulgated under paragraph (2); and

''(ii) pays the costs of the interconnection.

''(B) COSTS.—

''(i) IN GENERAL.—Subject to clause (ii), the costs of the interconnection—

''(I) shall be just and reasonable and not unduly discriminatory; and

''(II) shall be comparable to the costs charged by the transmitting utility for interconnection by any similarly situated generating facility to the transmitting facilities of the transmitting utility.

''(ii) EFFECT OF FERC LITE.—A non-Federal regulatory authority that, under any provision of Federal law enacted before, on, or after the date of enactment of this subparagraph, is authorized to determine the rates for transmission service shall be authorized to determine the costs of any interconnection under this subparagraph in accordance with that provision of Federal law.

''(C) APPLICABLE REQUIREMENTS.—The right of a generating facility to interconnect under subparagraph (A) does not—

''(i) relieve the generating facility or the transmitting utility of other Federal, State, or local requirements; or

''(ii) provide the generating facility with transmission or distribution service.

''(2) RULE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the Commission shall promulgate a final rule to establish reasonable and appropriate technical standards for the interconnection of a generating facility with the transmission facilities of a transmitting utility.

''(B) PROCESS.—To the extent feasible, the Commission shall develop the standards through a process involving interested parties.

''(C) ADVISORY COMMITTEE.—The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission concerning development of the standards.

''(3) RIGHT TO BACKUP POWER.—

''(A) IN GENERAL.—In accordance with subparagraph (B), a transmitting utility shall offer to sell backup power to a generating facility that has interconnected with the transmitting utility unless—

''(i) Federal or State law (including regulations) allows a generating facility to purchase backup power from an entity other than the transmitting utility; or

''(ii) a transmitting utility allows a generating facility to purchase backup power from an entity other than the transmitting utility using—

''(I) the transmission facilities of the transmitting utility; and

''(II) the transmission facilities of any other transmitting utility.

''(B) RATES, TERMS, AND CONDITIONS.—A sale of backup power under subparagraph (A) shall be at such a rate, and under such terms and conditions, as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) NO REQUIREMENT FOR CERTAIN SALES.—A transmitting utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) NEW OR EXPANDED LOADS.—To the extent backup power is used to serve a new or expanded load on the transmission system, the generating facility shall pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide such service.''.

(d) CONFORMING AMENDMENTS.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

(1) in subsection (a)(1)—

(A) by inserting ''transmitting utility, local distribution utility,'' after ''electric utility,''; and

(B) in subparagraph (A), by inserting ''any transmitting utility,'' after ''small power production facility,'';

(2) in subsection (b)(2), by striking ''an evidentiary hearing'' and inserting ''a hearing'';

(3) in subsection (c)(2)—

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

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

(C) by adding at the end the following:

''(D) promote competition in electricity markets, and''; and

(4) in subsection (d), by striking the last sentence.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 934. A bill to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and for other purposes; to the Committee on Indian Affairs.

Mr. BURNS. Mr. President, I am pleased today to join my colleague from Montana, Senator BAUCUS, in introducing the Rocky Boy's/North Central Montana Regional Water System Act of 2001. The purpose of this bill is to authorize a regional water delivery system which will serve both the Rocky Boy's Reservation and the surrounding region in north central Montana. For the last few years I have been working on this bill with the members of the Chippewa Cree Tribe, the citizens of the six towns affected, and the users of the eight water districts who have joined together to bring clean, safe drinking water to their families. More than 30,000 people would be serviced by this rural water system.

This bill is needed now for a number of reasons. First, it will provide a means to import water to the Rocky Boy's Reservation for drinking and for other everyday needs. Over the last decade, the population of the Rocky Boy's Reservation has grown by 40 percent, leaving existing water infrastructure insufficient. Secondly, there are

three small water systems in the region which are currently operating out of compliance with the EPA's Surface Water Treatment Rule. Others are nearing non-compliance, and one has been issued an administrative rule by the Montana Department of Environmental Quality to begin water treatment as soon as possible.

This bill helps us to realize that simply maintaining a small town or district's water system can be so expensive and filled with red tape that its users can hardly afford it. Under current law even if small systems are able to be developed, they must be continually monitored and the results reported. That may not be a problem in a larger community with a sizeable tax base and a labor pool, but in a rural setting those expenses and responsibilities are spread between so few people that it can quickly become a major problem. I know rural Montana. I can tell you our very smallest towns are hurting. They are deeply affected by a lagging agricultural economy, and the inability to provide water for any number of reasons could be enough to shut a small town down. Is that what we want? I don't think so. One of the ways we can address that problem is with the development of regional water systems, which are more efficient, and easier to manage.

I truly believe it is time to stand up and face our commitments to Indian Country and rural America head on. This bill is the perfect opportunity for that, because it uses the teamwork of committed citizens and builds on the system they have developed. This is a very good example of cooperation between tribal and non-tribal entities, and of what happens when people come to the table ready to find a solution.

This project has been a long time coming. The State of Montana committed to it in 1997 with a promise of $10 million for construction, and by providing technical assistance through the Montana Department of Environmental Quality. Initial federal assistance followed in the form of an appropriation of $300,000 for engineering and planning for fiscal year 2000. The report was completed and the preliminary engineering is complete. With the passage of the water compact settling the water rights between the Chippewa Cree Tribe and Montana, P.L. 106–163 signed by President Clinton in 1999, the stage was set for this project to be built.

All the bases have been covered and it is time to authorize this project. There is a real need for a less burdensome way to manage the water needs of the area. The Rocky Boy's Reservation is in need of an expanded water source and system, and smaller water districts and municipalities are also struggling to stay in operation. The best way to solve both these problems at once is to build an efficient regional water system. I propose we do just that and show our commitment to rural America.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 93—CONGRATULATING THE UNIVERSITY OF MINNESOTA, ITS FACULTY, STAFF, STUDENTS, ALUMNI, AND FRIENDS, FOR 150 YEARS OF OUTSTANDING SERVICE TO THE STATE OF MINNESOTA, THE NATION, AND THE WORLD

Mr. WELLSTONE (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas the University of Minnesota, the land-grant university of the State of Minnesota and a major research institution, with its 4 campuses and many outreach centers, is one of the most comprehensive and prestigious universities in the United States;

Whereas since its inception the University of Minnesota has awarded more than 537,575 degrees, including more than 24,728 Ph.D.s;

Whereas 13 faculty members and alumni have been awarded Nobel Prizes, including the Nobel Peace Prize;

Whereas the faculty, staff, and students of the University of Minnesota have made a significant impact on the lives of people throughout the world through accomplishments that include—

(1) establishing the leading kidney transplant center in the world;

(2) developing more than 80 new crop varieties that greatly increase food production around the world;

(3) developing the taconite process;

(4) inventing the flight recorder (commonly known as the black box) and the retractable seat belt;

(5) eradicating many poultry and livestock diseases;

(6) inventing the heart-lung machine used during the first open-heart surgery in the world;

(7) isolating uranium-235 in a prototype mass spectrometer;

(8) inventing the heart pacemaker; and

(9) developing the Minnesota Multiphasic Personality Inventory (MMPI);

Whereas the University of Minnesota conducts more than 300 different programs serving children and youth;

Whereas the University Extension Service has contact with 700,000 Minnesota residents every year in areas ranging from crop management to effective parenting;

Whereas the University of Minnesota makes significant contributions to the artistic and cultural richness of the region through its faculty, students, and curriculum as well as its galleries, museums, concerts, dance theater, theater productions, lectures, and films;

Whereas the University of Minnesota library system is the 17th largest in North America;

Whereas the alumni of the University of Minnesota, including 370,000 living alumni, have played a major role in building the economic health and vitality of Minnesota; and

Whereas the alumni of the University of Minnesota have created more than 1,500 technology companies that employ more than 100,000 Minnesotans and add $30,000,000,000 to the annual economy of the State: Now, therefore, be it

Resolved, That the Senate congratulates the University of Minnesota and its faculty, staff, students, alumni, and friends for a tradition of outstanding teaching, research, and service to Minnesota, the Nation, and the world on the occasion of the 150th anniversary of the founding of the University of Minnesota.

SENATE CONCURRENT RESOLUTION 41—AUTHORIZING THE USE OF THE CAPITOL GROUNDS FOR THE NATIONAL BOOK FESTIVAL

Mr. STEVENS submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. AUTHORIZATION OF USE OF CAPITOL GROUNDS FOR NATIONAL BOOK FESTIVAL.

(a) IN GENERAL.—The Library of Congress (in this resolution referred to as the 'sponsor'), in cooperation with the First Lady, may sponsor the National Book Festival (in this resolution referred to as the 'event') on the Capitol Grounds.

(b) DATE OF EVENT.—The event shall be held on September 8, 2001, or on such other date as the Senate Committee on Rules and Administration and the Speaker of the House of Representatives jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event authorized under section 1 shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the sponsor may cause to be placed on the Capitol Grounds such stage, seating, booths, sound amplification and video devices, and other related structures and equipment as may be required for the event, including equipment for the broadcast of the event over radio, television, and other media outlets.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board may make any additional arrangements as may be required to carry out the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, advertisements, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds in connection with the event.

AMENDMENTS SUBMITTED AND PROPOSED

SA 763. Mr. GRAHAM (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table.

SA 764. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table.

SA 765. Mr. REID (for himself, Mr. DORGAN, Mr. GRAHAM, Ms. STABENOW, and Ms. CANTWELL) submitted an amendment intended to

be proposed by him to the bill H.R. 1836, supra.

SA 766. Mr. NELSON, of Florida (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 767. Mrs. BOXER (for herself and Mr. NELSON, of Florida) proposed an amendment to the bill H.R. 1836, supra.

SA 768. Mr. DASCHLE proposed an amendment to the bill H.R. 1836, supra.

SA 769. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 770. Mr. LEVIN proposed an amendment to the bill H.R. 1836, supra.

SA 771. Mr. LEVIN proposed an amendment to the bill H.R. 1836, supra.

SA 772. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 773. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 774. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 775. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 776. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 777. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 778. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 779. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 780. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 781. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra.

SA 782. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 783. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

SA 784. Mr. HARKIN (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 1836, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 763. Mr. GRAHAM (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 9, in the last column of the table between lines 11 and 12, strike ''38.6%'', ''37.6%'', and ''36%'' and insert ''39.6%'', ''38.6%'', and ''37.6%'', respectively.

On page 314, after line 21, add the following:

Subtitle B—Long-Term Care and Retirement Security

SEC. ___. TREATMENT OF PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions), as amended by this Act, is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

''SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage for the taxpayer, his spouse, and dependents under a qualified long-term care insurance contract (as defined in section 7702B(b)).

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage shall be determined in accordance with the following table based on the number of years of continuous coverage (as of the close of the taxable year) of the individual under any qualified long-term care insurance contracts (as defined in section 7702B(b)):

''If the number of years of continuous coverage is—	**The applicable long-term care percentage is—**
Less than 1	60
At least 1 but less than 2	70
At least 2 but less than 3	80
At least 3 but less than 4	90
At least 4	100.

''(2) SPECIAL RULES FOR INDIVIDUALS WHO HAVE ATTAINED AGE 55.—In the case of an individual who has attained age 55 as of the close of the taxable year, the following table shall be substituted for the table in paragraph (1).

''If the number of years of continuous coverage is—	**The applicable long-term care percentage is—**
Less than 1	70
At least 1 but less than 2	85
At least 2	100.

''(3) ONLY COVERAGE AFTER 2000 TAKEN INTO ACCOUNT.—Only coverage for periods after December 31, 2000, shall be taken into account under this subsection.

''(4) CONTINUOUS COVERAGE.—An individual shall not fail to be treated as having continuous coverage if the aggregate breaks in coverage during any 1-year period are less than 60 days.

''(c) COORDINATION WITH OTHER DEDUCTIONS.—Any amount paid by a taxpayer for any qualified long-term care insurance contract to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a).''.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by an employer to accident and health plans) is amended by striking subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 62(a), as amended by this Act, is amended by inserting after paragraph (18) the following new item:

''(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.''.

(2) The table of sections for part VII of subchapter B of chapter 1, as amended by this Act, is amended by striking the last item and inserting the following new items:

''Sec. 223. Premiums on qualified long-term care insurance contracts.

''Sec. 224. Cross reference.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2002.

SEC. ___. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

''SEC. 25D. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit amount multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

''(2) APPLICABLE CREDIT AMOUNT.—For purposes of paragraph (1), the applicable credit amount shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable credit amount is—**
2001	$1,000
2002	1,500
2003	2,000
2004	2,500
2005 or thereafter	3,000.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $100 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(A) $150,000 in the case of a joint return, and

''(B) $75,000 in any other case.

''(3) INDEXING.—In the case of any taxable year beginning in a calendar year after 2001, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the medical care cost adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting 'August 2000' for 'August 1996' in subclause (II) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

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

''(1) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 6 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

''(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

''(2) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

''(d) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.

''(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2) is amended by striking ''and'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', and'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) an omission of a correct TIN or physician identification required under section 25D(d) (relating to credit for taxpayers with long-term care needs) to be included on a return.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Credit for taxpayers with long-term care needs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. ___. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.

(a) ADDITIONAL PROTECTIONS APPLICABLE TO LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (B) of section 7702B(g)(2) (relating to requirements of model regulation and Act) are amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 6A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 6A.

''(II) Section 6B (relating to prohibitions on limitations and exclusions).

''(III) Section 6C (relating to extension of benefits).

''(IV) Section 6D (relating to continuation or conversion of coverage).

''(V) Section 6E (relating to discontinuance and replacement of policies).

''(VI) Section 7 (relating to unintentional lapse).

''(VII) Section 8 (relating to disclosure), other than section 8F thereof.

''(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

''(IX) Section 12 (relating to minimum standards).

''(X) Section 13 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

''(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(XII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of September 2000).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.''.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) (relating to requirements of model provisions) is amended to read as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 9 (relating to required disclosure of rating practices to consumer).''

''(ii) Section 14 (relating to application forms and replacement coverage).

''(iii) Section 15 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iv) Section 22 (relating to filing requirements for marketing).

''(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

''(vi) Section 24 (relating to suitability).

''(vii) Section 29 (relating to standard format outline of coverage).

''(viii) Section 30 (relating to requirement to deliver shopper's guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in Appendix B relating to consumer protection requirements not imposed by section 4980C or 7702B.

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6I (relating to policy summary).

''(v) Section 6J (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued more than 1 year after the date of the enactment of this Act.

SA 764. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, insert the following:

SEC. ___. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SA 765. Mr. REID (for himself, Mr. DORGAN, Mr. GRAHAM, Ms. STABENOW, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; as follows:

On page 314, after line 21, add the following:

SEC. . NEW GUARANTEED MINIMUM PRIMARY INSURANCE AMOUNT WHERE ELIGIBILITY ARISES DURING TRANSITIONAL PERIOD.

(a) IN GENERAL.—Section 215(a) of the Social Security Act (42 U.S.C. 415(a)) is amended—

(1) in paragraph (4)(B)—

(A) by inserting ''(with or without the application of paragraph (8))'' after ''would be made''; and

(B) in clause (i), by striking ''1984'' and inserting ''1989''; and

(2) by adding at the end the following:

''(8)(A) In the case of an individual described in paragraph (4)(B) (subject to subparagraphs (F) and (G) of this paragraph, the amount of the individual's primary insurance amount as computed or recomputed under paragraph (1) shall be deemed equal to the sum of—

''(i) such amount, and

''(ii) the applicable transitional increase amount (if any).

''(B) For purposes of subparagraph (A)(ii), the term 'applicable transitional increase amount' means, in the case of any individual, the product derived by multiplying—

''(i) the excess under former law, by

''(ii) the applicable percentage in relation to the year in which the individual becomes eligible for old-age insurance benefits, as determined by the following table:

"If the individual becomes eligible for such benefits in:	The applicable percentage is:
1979	55 percent
1980	45 percent
1981	35 percent
1982	32 percent
1983	25 percent
1984	20 percent
1985	16 percent
1986	10 percent
1987	3 percent
1988	5 percent.

''(C) For purposes of subparagraph (B), the term 'excess under former law' means, in the case of any individual, the excess of—

''(i) the applicable former law primary insurance amount, over

''(ii) the amount which would be such individual's primary insurance amount if computed or recomputed under this section without regard to this paragraph and paragraphs (4), (5), and (6).

''(D) For purposes of subparagraph (C)(i), the term 'applicable former law primary insurance amount' means, in the case of any individual, the amount which would be such individual's primary insurance amount if it were—

''(i) computed or recomputed (pursuant to paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978, or

''(ii) computed or recomputed (pursuant to paragraph (4)(B)(ii)) as provided by subsection (d), (as applicable) and modified as provided by subparagraph (E).

''(E) In determining the amount which would be an individual's primary insurance amount as provided in subparagraph (D)—

''(i) subsection (b)(4) shall not apply;

''(ii) section 215(b) as in effect in December 1978 shall apply, except that section 215(b)(2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 61, plus the 3 calendar years after such period for which the total of such individual's wages and self-employment income is the largest; and

''(iii) subdivision (I) in the last sentence of paragraph (4) shall be applied as though the words 'without regard to any increases in that table' in such subdivision read 'including any increases in that table'.

''(F) This paragraph shall apply in the case of any individual only if such application results in a primary insurance amount for such individual that is greater than it would be if computed or recomputed under paragraph (4)(B) without regard to this paragraph.

''(G)(i) This paragraph shall apply in the case of any individual subject to any timely election to receive lump sum payments under this subparagraph.

''(ii) A written election to receive lump sum payments under this subparagraph, in lieu of the application of this paragraph to the computation of the primary insurance amount of an individual described in paragraph (4)(B), may be filed with the Commissioner of Social Security in such form and manner as shall be prescribed in regulations of the Commissioner. Any such election may be filed by such individual or, in the event of such individual's death before any such election is filed by such individual, by any other beneficiary entitled to benefits under section 202 on the basis of such individual's wages and self-employment income. Any such election filed after December 31 2001, shall be null and void and of no effect.

''(iii) Upon receipt by the Commissioner of a timely election filed by the individual described in paragraph (4)(B) in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of such election to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay such individual, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000, in 4 annual lump sum installments of $1,250, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

''(II) subparagraph (A) shall not apply in determining such individual's primary insurance amount.

''(iv) Upon receipt by the Commissioner as of December 31, 2001, of a timely election filed in accordance with clause (ii) by at least one beneficiary entitled to benefits on the basis of the wages and self-employment income of a deceased individual described in paragraph (4)(B), if such deceased individual has filed no timely election in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of all such elections received as of such date to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay each beneficiary filing such a timely election, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000 (or, in the case of 2 or more such beneficiaries, such amount distributed evenly among such beneficiaries), in 4 equal annual lump sum installments, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

''(II) solely for purposes of determining the amount of such beneficiary's benefits, subparagraph (A) shall be deemed not to apply in determining the deceased individual's primary insurance amount.''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) APPLICABILITY OF AMENDMENTS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall be effective as though they had

been included or reflected in section 201 of the Social Security Amendments of 1977.

(B) APPLICABILITY.—No monthly benefit or primary insurance amount under title II of the Social Security Act shall be increased by reason of such amendments for any month before July 2002. The amendments made in this section shall apply with respect to benefits payable in months in any fiscal year after fiscal year 2005 only if the corresponding decrease in adjusted discretionary spending limits for budget authority and outlays under section 3 of this Act for fiscal years prior to fiscal year 2006 is extended by Federal law to such fiscal year after fiscal year 2005.

(2) RECOMPUTATION TO REFLECT BENEFIT INCREASES.—Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute the primary insurance amount so as to take into account the amendments made by this Act in any case in which—

(A) an individual is entitled to monthly insurance benefits under title II of such Act for June 2002; and

(B) such benefits are based on a primary insurance amount computed—

(i) under section 215 of such Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977).

(c) OFFSET PROVIDED BY PROJECTED FEDERAL BUDGET SURPLUSES.—Amounts offset by this section shall not be counted as direct spending for purposes of the budgetary limits provided in the congressional Budget Act of 1974 and the Balanced Budget and emergency Deficit Control Act of 1985.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendment made by this section.

SA 766. Mr. NELSON of Florida (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 the concurrent resolution of the budget for fiscal year 2002; which was ordered to lie on the table;

On page 9, in the table between lines 11 and 12, strike ''38.6%'' and insert ''38.7%'', strike ''37.6%'' and insert ''37.7%'', and strike (in the line which begins ''2007 and thereafter'') ''36%'' and insert ''36.1%''.

On page 314, after line 21, add the following:

SEC. ___. TAX-EXEMPT BOND AUTHORITY FOR TREATMENT FACILITIES REDUCING ARSENIC LEVELS IN DRINKING WATER.

(a) IN GENERAL.—Section 142(e) (relating to facilities for the furnishing of water) is amended—

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

(2) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—For purposes'', and

(3) by adding at the end the following:

''(2) FACILITIES REDUCING ARSENIC LEVELS INCLUDED.—Such term includes improvements to facilities in order to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences.''.

(b) FACILITIES NOT SUBJECT TO STATE CAP.—Section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4), the following new paragraph:

''(5) any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

(c) EXEMPT FROM AMT.—Section 57(a)(5)(C) (relating to tax-exempt interest of specified private activity bonds) is amended by adding at the end the following new clause:

''(v) EXCEPTION FOR CERTAIN WATER FACILITY BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

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

SA 767. Mrs. BOXER (for herself and Mr. NELSON of Florida) proposed an amendment to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; as follows:

On page 314, after line 21, add the following:

SEC. ___. TAX-EXEMPT BOND AUTHORITY FOR TREATMENT FACILITIES REDUCING ARSENIC LEVELS IN DRINKING WATER.

(a) IN GENERAL.—Section 142(e) (relating to facilities for the furnishing of water) is amended—

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

(2) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—For purposes'', and

(3) by adding at the end the following:

''(2) FACILITIES REDUCING ARSENIC LEVELS INCLUDED.—Such term includes improvements to facilities in order to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences.''.

(b) FACILITIES NOT SUBJECT TO STATE CAP.—Section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4), the following new paragraph:

''(5) any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

(c) EXEMPT FROM AMT.—Section 57(a)(5)(C) (relating to tax-exempt interest of specified private activity bonds) is amended by adding at the end the following new clause:

''(v) EXCEPTION FOR CERTAIN WATER FACILITY BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).''.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

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

SA 768. Mr. DASCHLE proposed an amendment to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; as follows:

On page 9, in the matter between lines 11 and 12, strike ''37.6%'' in the item relating to 2005 and 2006 and insert ''38.6%'' and strike ''36%'' in the item relating to 2007 and thereafter and insert ''38.6%''.

On page 13, between lines 15 and 16, insert:

SEC. 104. INCREASE IN MAXIMUM TAXABLE INCOME FOR 15 PERCENT RATE BRACKET.

(a) IN GENERAL.—Section 1(f) (relating to adjustments in tax tables so that inflation will not result in tax increases), as amended by section 302, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D),

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

''(B) in the case of the tables contained in subsections (a), (b), (c), and (d), by increasing the maximum taxable income level for the 15 percent rate bracket and the minimum taxable income level for the next highest rate bracket otherwise determined under subparagraph (A) (after application of paragraph (8)) for taxable years beginning in any calendar year after 2004, by the applicable dollar amount for such calendar year,'', and

(C) by striking ''subparagraph (A)'' in subparagraph (C) (as so redesignated) and inserting ''subparagraphs (A) and (B)'', and

(2) by adding at the end the following:

''(9) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2)(B), the applicable dollar amount for any calendar year shall be determined as follows:

''(A) JOINT RETURNS AND SURVIVING SPOUSES.—In the case of the table contained in subsection (a)—

''Calendar year:	Applicable Dollar Amount:
2005	$1,000
2006	$2,000
2007	$3,000
2008	$4,000
2009 and thereafter	$5,000.

''(B) OTHER TABLES.—In the case of the table contained in subsection (b), (c), or (d)—

''Calendar year:	Applicable Dollar Amount:
2005	$500
2006	$1,000
2007	$1,500
2005	$2,000
2009 and thereafter	$2,500.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect one day after the date of the enactment of this Act.

SA 769. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CIRCUIT BREAKER.

(a) IN GENERAL.—In any fiscal year beginning with fiscal year 2004, if the level of debt held by the public at the end of that fiscal year (as projected by the Office of Management and Budget sequestration update report on August 20th preceeding the beginning of that fiscal year) would exceed the level of debt held by the public for that fiscal year set forth in the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), any Member of Congress may move to proceed to a bill that would make changes in law to reduce discretionary spending and direct spending (except for changes in Social Security, Medicare and COLA's) and increase revenues in a manner that would reduce the debt held by the public for the fiscal year to a level not exceeding the level provided in that concurrent resolution for that fiscal year. The motion to proceed shall be voted on at the end of 4 hours of debate.

(b) CONSIDERATION OF LEGISLATION.—A bill considered under subsection (a) shall be considered as provided in section 310(e) of the Congressional Budget Act of 1974 (2 U.S.C. 641(e)).

(c) PROCEDURE.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report, pursuant to this section, that contains any provisions other than those enumerated in section 310(a)(1) and 310(a)(2) of the Congressional Budget Act of 1974. This point of order may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members duly chosen and sworn. An affirmative vote of three-fifths of the Members duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

SA 770. Mr. LEVIN proposed an amendment to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; as follows:

Beginning on page 68, strike line 12 and all that follows through page 70, line 19, and insert the following:

(a) IN GENERAL.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking the table and inserting the following new table:

"In the case of estates of decedents dying during:	The applicable exclusion amount is:
2002 through 2010	$4,000,000.''.

(b) LIFETIME GIFT EXEMPTION INCREASED TO $1,000,000.—

(1) FOR PERIODS BEFORE ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by inserting ''(determined as if the applicable exclusion amount were $1,000,000)'' after ''calendar year''.

(2) FOR PERIODS AFTER ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax), as amended by paragraph (1), is amended to read as follows:

''(1) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2502(a)(2) if the amount with respect to which such tentative tax is to be computed were $1,000,000, reduced by''.

(c) GST EXEMPTION.—

(1) IN GENERAL.—Subsection (a) of 2631 (relating to GST exemption) is amended by striking ''of $1,000,000'' and inserting ''amount''.

(2) EXEMPTION AMOUNT.—Subsection (c) of section 2631 is amended to read as follows:

''(c) GST EXEMPTION AMOUNT.—For purposes of subsection (a), the GST exemption amount for any calendar year shall be equal to the applicable exclusion amount under section 2010(c) for such calendar year.''.

(d) REPEAL OF SPECIAL BENEFIT FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (10) of section 2031(c) is amended by inserting ''(as in effect on the day before the date of the enactment of this parenthetical)'' before the period.

(B) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001.

(2) SUBSECTION (b)(2).—The amendments made by subsection (b)(2) shall apply to gifts made after December 31, 2010.

(f) REVENUE OFFSET.—The reductions in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section as compared to the amendments made by section 521 of the Restoring Earnings To Lift Individuals and Empower Families (RELIEF) Act of 2001 as reported by the Finance Committee of the Senate on May 16, 2001.

SA 771. Mr. LEVIN proposed an amendment to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; as follows:

On page 314, after line 21, add the following:

SEC. ___. ACCELERATION OF FULL IMPLEMENTATION OF TUTITION DEDUCTION AND REPEAL OF TERMINATION.

(a) DEDUCTION FOR HIGHER EDUCATION EXPENSES.—

(1) MAXIMUM AMOUNT OF DEDUCTION.—Section 222(b)(2) (relating to applicable dollar amount), as added by section 431(a) of this Act, is amended to read as follows:

''(2) APPLICABLE DOLLAR LIMIT.—

''(A) IN GENERAL.—The applicable dollar limit shall be equal to—

''(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed $65,000 ($130,000 in the case of a joint return), $5,000,

''(ii) in the case of a taxpayer not described in clause (i) whose adjusted gross income for the taxable year does not exceed $80,000 ($160,000 in the case of a joint return), $2,000, and

''(iii) in the case of any other taxpayer, zero.

''(B) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after application of sections 86, 135, 137, 219, 221, and 469.''.

(2) REPEAL OF TERMINATION.—Section 222(e) (relating to termination), as added by section 431(a) of this Act, is repealed.

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

(c) REVENUE OFFSET.—The reductions in 2005 and 2007 in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

SA 772. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, insert the following:

SEC. 803. REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) RESTORATION OF PRIOR LAW FORMULA.—Subsection (a) of section 86 is amended to read as follows:

''(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) (notwithstanding section 207 of the Social Security Act) includes social security benefits in an amount equal to the lesser of—

''(1) one-half of the social security benefits received during the taxable year, or

''(2) one-half of the excess described in subsection (b)(1).''

(b) REPEAL OF ADJUSTED BASE AMOUNT.—Subsection (c) of section 86 is amended to read as follows:

''(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

''(1) except as otherwise provided in this subsection, $25,000,

''(2) $32,000 in the case of a joint return, and

''(3) zero in the case of a taxpayer who—

''(A) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(B) does not live apart from his spouse at all times during the taxable year.''

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 871(a)(3) is amended by striking ''85 percent'' and inserting ''50 percent''.

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking ''(A) There'' and inserting ''There'';

(ii) by striking ''(i)'' immediately following ''amounts equivalent to''; and

(iii) by striking '', less (ii)'' and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)''.

(d) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—

(1) APPROPRIATION.—There are hereby appropriated to the Hospital Insurance Trust Fund established under section 1817 of the Social Security Act amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this section.

(2) TRANSFER.—Amounts appropriated under paragraph (1) shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had this section not been enacted.

(e) REVENUE OFFSET.—The Secretary of the Treasury shall adjust each of the corresponding percentages for the 39.6% rate which are contained in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986 (as added by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to benefits paid after December 31, 2000.

(3) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 2000.

SA 773. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. COMMUTER BENEFITS EQUITY.

(a) UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$65'' and inserting ''$175''.

(2) CONFORMING AMENDMENT.—Section 9010 of the Transportation Equity Act for the 21st Century is amended by striking subsection (c).

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

(b) CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.—Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting ''and'' after the semicolon;

(B) in paragraph (3) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A), by amending subparagraph (A) to read as follows:

''(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;''.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the reduction in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, as necessary to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

SA 774. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, add the following:

SEC. ___. 5-YEAR EXTENSION OF CERTAIN EXPIRING PROVISIONS.

(a) FIVE-YEAR EXTENSION OF CERTAIN EXPIRING PROVISIONS.—

(1) ADOPTION CREDITS.—

(A) CHILDREN WITHOUT SPECIAL NEEDS.—Section 23(d)(2)(B) (defining eligible child) is amended by striking ''2001'' and inserting ''2006''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(f) (relating to termination) is amended by striking ''2001'' and inserting ''2006''.

(2) NONREFUNDABLE PERSONAL CREDITS UNDER AMT.—So much of section 26(a)(2) as precedes subparagraph (A) is amended to read as follows:

''(2) SPECIAL RULE FOR CALENDAR YEARS 2000 THROUGH 2006.—For purposes of any taxable year beginning during calendar years 2000 through 2006, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—''.

(3) WORK OPPORTUNITY CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''2001'' and inserting ''2006''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(4) WELFARE-TO-WORK CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51A(f) (relating to termination) is amended by striking ''2001'' and inserting ''2006''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(5) ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.—Subparagraphs (A), (B), and (C) of section 45(c)(3) (defining qualified facility) are each amended by striking ''2002'' and inserting ''2007''.

(6) DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.—Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking ''January 1, 2002'' and inserting ''January 1, 2007''.

(7) QUALIFIED ZONE ACADEMY BOND PROGRAM.—Section 1397E(e)(1) (relating to national limitation) is amended by striking ''1998, 1999, 2000, and 2001'' and inserting ''each of years 1998 through 2006''.

(8) EMPLOYER PROVIDED EDUCATIONAL ASSISTANCE.—Section 127(d) (relating to termination) is amended by striking ''2001'' and inserting ''2006''.

(9) INCOME LIMIT FOR PERCENTAGE DEPLETION.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2007''.

(10) SUBPART F EXEMPTION.—

(A) TEMPORARY EXTENSION.—Section 953(e)(10) is amended—

(i) by striking ''January 1, 2002'' and inserting ''January 1, 2007'', and

(ii) by striking ''December 31, 2001'' and inserting ''December 31, 2006''.

(B) CONFORMING AMENDMENT.—Section 954(h)(9) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2007''.

(11) PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.—

(A) TEMPORARY EXTENSION.—Subsection (f) of section 9812 is amended by striking ''on or after September 30, 2001'' and inserting ''after September 30, 2006''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to benefits for services furnished after September 30, 2001.

(12) PHASEOUT OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(A) TEMPORARY EXTENSION OF PHASEOUT.—Subsection (b)(1)(B) of section 179A is amended—

(i) in the matter preceding clause (i), by striking ''December 31, 2001' and inserting ''December 31, 2006'',

(ii) in clause (i), by striking ''2002'' and inserting ''2007'',

(iii) in clause (ii), by striking ''2003'' and inserting ''2008'', and

(iv) in clause (iii), by striking ''2004'' and inserting ''2009''.

(B) EXTENSION OF TERMINATION DATE.—Section 179A(f) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2001.

(13) PHASEOUT OF CREDIT FOR ELECTRIC VEHICLES.—

(A) TEMPORARY EXTENSION OF PHASE OUT.—Section 30(b)(2) is amended—

(i) in the matter preceding subparagraph (A), by striking ''December 31, 2001'' and inserting ''December 31, 2006'',

(ii) in subparagraph (A), by striking ''2002'' and inserting ''2007'',

(iii) in subparagraph (B), by striking ''2003'' and inserting ''2008'', and

(iv) in subparagraph (C), by striking ''2004'' and inserting ''2009''.

(B) EXTENSION OF TERMINATION DATE.—Section 30(e) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2009''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2001.

(14) GENERALIZED SYSTEM OF PREFERENCES.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''September 30, 2001'' and inserting ''December 31, 2006''.

(15) ANDEAN TRADE PREFERENCE.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.''.

(16) TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

''(1) $10.50 ($13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2007), or''.

(b) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

(c) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the reduction in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, as necessary to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

SA 775. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 9, in the table between lines 11 and 12, strike ''36%'' and insert ''37%''.

On page 54, between lines 4 and 5, insert the following:

''(C) 2006 THROUGH 2011.—

''(i) IN GENERAL.—In the case of a taxable year beginning in 2006, 2007, 2008, 2009, 2010,

or 2011, the applicable dollar amount shall be equal to the applicable dollar amount determined in the table contained in clause (ii), reduced (but not below zero) by the amount determined under clause (iii).

''(ii) APPLICABLE DOLLAR AMOUNT.—

''Taxable year beginning in:	Applicable dollar amount:
2006 or 2007	$10,000
2008, 2009, 2010, or 2011	$12,000.

''(iii) AMOUNT OF REDUCTION.—The amount determined under this clause for any taxable year is the amount which bears the same ratio to the applicable dollar amount determined in the table contained in clause (ii) for such taxable year as—

''(I) the excess of—

''(aa) the taxpayer's adjusted gross income for such taxable year, over

''(bb) $65,000 ($90,000 in the case of return filed by a head of household (as defined in section 2(b)), and $130,000 in the case of a joint return), bears to

''(II) $10,000 ($20,000 in the case of a joint return).

On page 59, line 3, strike ''$500'' and insert ''$1,000''.

SA 776. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 54, between lines 4 and 5, insert the following:

''(C) 2006 THROUGH 2011.—

''(i) IN GENERAL.—In the case of a taxable year beginning in 2006, 2007, 2008, 2009, 2010, or 2011, the applicable dollar amount shall be equal to the applicable dollar amount determined in the table contained in clause (ii), reduced (but not below zero) by the amount determined under clause (iii).

''(ii) APPLICABLE DOLLAR AMOUNT.—

''Taxable year beginning in:	Applicable dollar amount:
2006	$10,000
2007	10,000
2008	12,000
2009	12,000
2010	12,000
2011	12,000.

''(iii) AMOUNT OF REDUCTION.—The amount determined under this clause for any taxable year is the amount which bears the same ratio to the applicable dollar amount determined in the table contained in clause (ii) for such taxable year as—

''(I) the excess of—

''(aa) the taxpayer's adjusted gross income for such taxable year, over

''(bb) $65,000 ($90,000 in the case of return filed by a head of household (as defined in section 2(b)), and $130,000 in the case of a joint return), bears to

''(II) $10,000 ($20,000 in the case of a joint return).

On page 59, line 3, strike ''$500'' and insert ''$1,000''.

SA 777. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, add the following:

SEC. ___. INDIVIDUAL ALTERNATIVE MINIMUM TAX INDEXING; EXTENSION OF CERTAIN EXPIRING PROVISIONS.

(a) ALTERNATIVE MINIMUM TAX RELIEF.—Section 701(a) of this Act is amended to read as follows:

(a) IN GENERAL.—Section 55(d) (relating to exemption amount) is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 2000, the dollar amounts referred to in paragraph (1) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1999' for '1992'.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.''.

(b) ONE-YEAR EXTENSION OF CERTAIN EXPIRING PROVISIONS.—

(1) ADOPTION CREDITS.—

(A) CHILDREN WITHOUT SPECIAL NEEDS.—Section 23(d)(2)(B) (defining eligible child) is amended by striking ''2001'' and inserting ''2002''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(f) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(2) NONREFUNDABLE PERSONAL CREDITS UNDER AMT.—So much of section 26(a)(2) as precedes subparagraph (A) is amended to read as follows:

''(2) SPECIAL RULE FOR 2000, 2001, AND 2002.—For purposes of any taxable year beginning during 2000, 2001, or 2002, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—''.

(3) WORK OPPORTUNITY CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(4) WELFARE-TO-WORK CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51A(f) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(5) ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.—Subparagraphs (A), (B), and (C) of section 45(c)(3) (defining qualified facility) are each amended by striking ''2002'' and inserting ''2003''.

(6) DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.—Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(7) QUALIFIED ZONE ACADEMY BOND PROGRAM.—Section 1397E(e)(1) (relating to national limitation) is amended by striking ''and 2001'' and inserting ''2001, and 2002''.

(8) EMPLOYER PROVIDED EDUCATIONAL ASSISTANCE.—Section 127(d) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(9) INCOME LIMIT FOR PERCENTAGE DEPLETION.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(10) SUBPART F EXEMPTION.—

(A) TEMPORARY EXTENSION.—Section 953(e)(10) is amended—

(i) by striking ''January 1, 2002'' and inserting ''January 1, 2003'', and

(ii) by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(B) CONFORMING AMENDMENT.—Section 954(h)(9) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(11) PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.—

(A) TEMPORARY EXTENSION.—Subsection (f) of section 9812 is amended by striking ''on or after September 30, 2001'' and inserting ''after September 30, 2002''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to benefits for services furnished after September 30, 2001.

(12) PHASEOUT OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(A) TEMPORARY EXTENSION OF PHASEOUT.—Subsection (b)(1)(B) of section 179A is amended—

(i) in the matter preceding clause (i), by striking ''December 31, 2001' and inserting ''December 31, 2002'',

(ii) in clause (i), by striking ''2002'' and inserting ''2003'',

(iii) in clause (ii), by striking ''2003'' and inserting ''2004'', and

(iv) in clause (iii), by striking ''2004'' and inserting ''2005''.

(B) EXTENSION OF TERMINATION DATE.—Section 179A(f) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2001.

(13) PHASEOUT OF CREDIT FOR ELECTRIC VEHICLES.—

(A) TEMPORARY EXTENSION OF PHASE OUT.—Section 30(b)(2) is amended—

(i) in the matter preceding subparagraph (A), by striking ''December 31, 2001'' and inserting ''December 31, 2002'',

(ii) in subparagraph (A), by striking ''2002'' and inserting ''2003'',

(iii) in subparagraph (B), by striking ''2003'' and inserting ''2004'', and

(iv) in subparagraph (C), by striking ''2004'' and inserting ''2005''.

(B) EXTENSION OF TERMINATION DATE.—Section 30(e) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(C) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to property placed in service after December 31, 2001.

(14) GENERALIZED SYSTEM OF PREFERENCES.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''September 30, 2001'' and inserting ''December 31, 2002''.

(15) ANDEAN TRADE PREFERENCE.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2002.''.

(16) TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

''(1) $10.50 ($13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2003), or''.

(c) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the reduction in the

highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, as necessary to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

SA 778. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, add the following:

SEC. EXTENSION OF CERTAIN EXPIRING PROVISIONS.

(a) ONE-YEAR EXTENSION OF CERTAIN EXPIRING PROVISIONS.—

(1) ADOPTION CREDITS.—

(A) CHILDREN WITHOUT SPECIAL NEEDS.—Section 23(d)(2)(B) (defining eligible child) is amended by striking ''2001'' and inserting ''2002''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(f) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(2) NONREFUNDABLE PERSONAL CREDITS UNDER AMT.—So much of section 26(a)(2) as precedes subparagraph (A) is amended to read as follows:

''(2) SPECIAL RULE FOR 2000, 2001, AND 2002.—For purposes of any taxable year beginning during 2000, 2001, or 2002, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—''.

(3) WORK OPPORTUNITY CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(4) WELFARE-TO-WORK CREDIT.—

(A) TEMPORARY EXTENSION.—Section 51A(f) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to individuals who begin work for the employer after December 31, 2001.

(5) ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.—Subparagraphs (A), (B), and (C) of section 45(c)(3) (defining qualified facility) are each amended by striking ''2002'' and inserting ''2003''.

(6) DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.—Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(7) QUALIFIED ZONE ACADEMY BOND PROGRAM.—Section 1397E(e)(1) (relating to national limitation) is amended by striking ''and 2001'' and inserting ''2001, and 2002''.

(8) EMPLOYER PROVIDED EDUCATIONAL ASSISTANCE.—Section 127(d) (relating to termination) is amended by striking ''2001'' and inserting ''2002''.

(9) INCOME LIMIT FOR PERCENTAGE DEPLETION.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(10) SUBPART F EXEMPTION.—

(A) TEMPORARY EXTENSION.—Section 953(e)(10) is amended—

(i) by striking ''January 1, 2002'' and inserting ''January 1, 2003'', and

(ii) by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(B) CONFORMING AMENDMENT.—Section 954(h)(9) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(11) PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.—

(A) TEMPORARY EXTENSION.—Subsection (f) of section 9812 is amended by striking ''on or after September 30, 2001'' and inserting ''after September 30, 2002''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to benefits for services furnished after September 30, 2001.

(12) PHASEOUT OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(A) TEMPORARY EXTENSION OF PHASEOUT.—Subsection (b)(1)(B) of section 179A is amended—

(i) in the matter preceding clause (i), by striking ''December 31, 2001' and inserting ''December 31, 2002'',

(ii) in clause (i), by striking ''2002'' and inserting ''2003'',

(iii) in clause (ii), by striking ''2003'' and inserting ''2004'', and

(iv) in clause (iii), by striking ''2004'' and inserting ''2005''.

(B) EXTENSION OF TERMINATION DATE.—Section 179A(f) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2001.

(13) PHASEOUT OF CREDIT FOR ELECTRIC VEHICLES.—

(A) TEMPORARY EXTENSION OF PHASE OUT.—Section 30(b)(2) is amended—

(i) in the matter preceding subparagraph (A), by striking ''December 31, 2001'' and inserting ''December 31, 2002'',

(ii) in subparagraph (A), by striking ''2002'' and inserting ''2003'',

(iii) in subparagraph (B), by striking ''2003'' and inserting ''2004'', and

(iv) in subparagraph (C), by striking ''2004'' and inserting ''2005''.

(B) EXTENSION OF TERMINATION DATE.—Section 30(e) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(C) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to property placed in service after December 31, 2001.

(14) GENERALIZED SYSTEM OF PREFERENCES.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''September 30, 2001'' and inserting ''December 31, 2002''.

(15) ANDEAN TRADE PREFERENCE.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2002.''.

(16) TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

''(1) $10.50 ($13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2003), or''.

(c) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the reduction in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, as necessary to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

SA 779. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 9, between lines 14 and 15, insert the following:

''(4) DELAY OF TOP RATE REDUCTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), with respect to a calendar year, no percentage described in that paragraph shall be substituted for 39.6 percent until the requirement of subparagraph (B) is met.

''(B) FULLY FUNDING BASIC EDUCATION SERVICES.—The requirement of this paragraph is that legislation is enacted that appropriates funds for Title I of the Elementary and Secondary Education Act, as amended, at or above the levels that were authorized by the Senate when it passed Senate Amendment 365 (107th Congress; as offered by Senators Dodd and Collins), on a vote of 79 to 21 to provide Title I supports to 100 percent of economically disadvantaged children by 2011, rather than the 33% who are aided today under such title.''.

SA 780. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 314, after line 21, insert the following:

SEC. 803. REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) RESTORATION OF PRIOR LAW FORMULA.—Subsection (a) of section 86 is amended to read as follows:

''(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) (notwithstanding section 207 of the Social Security Act) includes social security benefits in an amount equal to the lesser of—

''(1) one-half of the social security benefits received during the taxable year, or

''(2) one-half of the excess described in subsection (b)(1).''

(b) REPEAL OF ADJUSTED BASE AMOUNT.—Subsection (c) of section 86 is amended to read as follows:

''(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

''(1) except as otherwise provided in this subsection, $25,000,

''(2) $32,000 in the case of a joint return, and

''(3) zero in the case of a taxpayer who—

''(A) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(B) does not live apart from his spouse at all times during the taxable year.''

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 871(a)(3) is amended by striking ''85 percent'' and inserting ''50 percent''.

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking ''(A) There'' and inserting ''There'';

(ii) by striking ''(i)'' immediately following ''amounts equivalent to''; and

(iii) by striking '', less (ii)'' and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)''.

(d) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—

(1) APPROPRIATION.—There are hereby appropriated to the Hospital Insurance Trust Fund established under section 1817 of the Social Security Act amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this section.

(2) TRANSFER.—Amounts appropriated under paragraph (1) shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had this section not been enacted.

(e) REVENUE OFFSET.—Notwithstanding any other provision of this legislation, each of the corresponding percentages for the 39.6% rate which are contained in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986 as added by section 101 of this Act shall remain at 39.6% for taxable years beginning before calendar year 2009. In calendar year 2009 and thereafter, they shall be 38.6%.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to benefits paid after December 31, 2000.

(3) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 2000.

SA 781. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002, as follows:

Strike the following sections of the bill: sections 501, 541, and 542.

SA 782. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

On page 280, line 25, strike ''one-participant'' and insert ''eligible''.

On page 281, line 5, strike ''ONE-PARTICPANT'' and insert ''ELIGIBLE''.

On page 281, line 7, strike ''one-participant'' and insert ''eligible''.

On page 281, strike lines 10 through 13 and insert the following:

(i) covered only an individual or an individual and the individual's spouse and such individual (or individual and spouse) wholly owned the trade or business (whether or not incorporated); or

On page 281, on lines 14 and 15, strike ''one or more partners (and their spouses)'' and insert ''the partners or the partners and their spouses''.

On page 281, line 24, strike ''the employer (and the employer's spouse)'' and insert ''the individuals described in subparagraph (A)(i)''.

Beginning on page 288, strike line 1 and all that follows through page 299, line 24, and insert the following:

Subtitle G—Other ERISA Provisions

SEC. 681. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsection:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

''(A) to the corporation, or

''(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has missing participants, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 682. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting ''other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined),'' after ''single-employer plan,'',

(2) in clause (iii), by striking the period at the end and inserting '', and'', and

(3) by adding at the end the following new clause:

''(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.''.

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

''(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

''(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

''(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.''.

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

SEC. 683. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR NEW AND SMALL PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

''(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

''(I) 0 percent, for the first plan year.

''(II) 20 percent, for the second plan year.

''(III) 40 percent, for the third plan year.

''(IV) 60 percent, for the fourth plan year.

''(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.''.

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 682(b), is amended—

(1) by striking ''The'' in subparagraph (E)(i) and inserting ''Except as provided in subparagraph (G), the'', and

(2) by inserting after subparagraph (F) the following new subparagraph:

''(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

''(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans established after December 31, 2001.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2001.

SEC. 684. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)'', and

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

''(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act.

SEC. 685. SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

''(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(i) owns the entire interest in an unincorporated trade or business,

''(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

''(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).

''(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

''(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

''(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.''.

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking ''section 4022(b)(5)'' and inserting ''section 4022(b)(5)(B)''.

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking ''(5)'' in paragraph (2) and inserting ''(4), (5),'', and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking ''as defined in section 4022(b)(6)'', and

(B) by adding at the end the following new subsection:

''(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(1) owns the entire interest in an unincorporated trade or business,

''(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

''(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).''.

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking ''section 4022(b)(6)'' and inserting ''section 4021(d)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2001, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2002.

SEC. 686. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025 (a)) is amended to read as follows:

''(a)(1) Except as provided in paragraph (2)—

''(A) the administrator of an individual account plan shall furnish a pension benefit statement—

''(i) to a plan participant at least once annually, and

''(ii) to a plan beneficiary upon written request, and

''(B) the administrator of a defined benefit plan shall furnish a pension benefit statement—

''(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is furnished to participants, and

''(ii) to a plan participant or plan beneficiary of the plan upon written request.

''(2) A pension benefit statement under paragraph (1)—

''(A) shall indicate, on the basis of the latest available information and reasonable estimates—

''(i) the total benefits accrued, and

''(ii) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

''(B) shall be written in a manner calculated to be understood by the average plan participant,

''(C) shall include a statement that the summary annual report is available upon request, and

''(D) may be provided in written, electronic, or other appropriate form.

''(3)(A) In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if the administrator provides the participant at least once each year with notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice shall be provided in written, electronic, or other appropriate form, and may be included with other communications to the participant if done in a manner reasonably designed to attract the attention of the participant.

''(B) The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(2) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

''(b) In no case shall a participant or beneficiary of a plan be entitled to more than one statement described in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is applicable, in any 12-month period.''.

(c) MODEL STATEMENTS.—The Secretary of Labor shall develop a model benefit statement, written in a manner calculated to be understood by the average plan participant, that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2001.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply, with respect to employees covered by any such agreement, for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment), or

(ii) January 1, 2002, or

(B) January 1, 2003.

SEC. 687. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation—

(1) in the case of an employee who, after commencement of payment of benefits under the plan, returns to service for which benefit payments may be suspended under such section 203(a)(3)(B) shall be made during the first calendar month or payroll period in which the plan withholds payments, and

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2001.

SEC. 688. STUDIES.

(a) REPORT ON PENSION COVERAGE.—Not later than 5 years after the date of the enactment of this Act, the Secretary of the Treasury, jointly with the Secretary of Labor, shall submit a report to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor and Pensions of the Senate a report on the effect of the provisions of the Restoring Earnings to Lift Individuals and Empower Families Act of 2001 on pension coverage, including—

(1) any expansion of coverage for low- and middle-income workers;

(2) levels of pension benefits;

(3) quality of pension coverage;

(4) worker's access to and participation in plans; and

(5) retirement security.

(b) STUDY OF PRERETIREMENT USE OF BENEFITS.—

(1) IN GENERAL.—The Secretary of the Treasury, jointly with the Secretary of Labor, shall conduct a study of—

(A) current tax provisions allowing individuals to access individual retirement plans and qualified retirement plan benefits of such individual prior to retirement, including an analysis of—

(i) the extent of use of such current provisions by individuals; and

(ii) the extent to which such provisions undermine the goal of accumulating adequate resources for retirement; and

(B) the types of investment decisions made by individual retirement plan beneficiaries and participants in self-directed qualified retirement plans, including an analysis of—

(i) current restrictions on investments; and

(ii) the extent to which additional restrictions on investments would facilitate the accumulation of adequate income for retirement.

(2) REPORT.—Not later than January 1, 2003, the Secretary of the Treasury, jointly with the Secretary of Labor, shall submit a report to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor and Pensions of the Senate containing the results of the study conducted under paragraph (1) and any recommendations.

SEC. 689. ANNUAL REPORT DISSEMINATION.

(a) REPORT AVAILABLE THROUGH ELECTRONIC MEANS.—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by adding at the end the following new sentence: ''The requirement to furnish information under the previous sentence shall be satisfied if the administrator makes such information reasonably available through electronic means or other new technology''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for years beginning after December 31, 2000.

SEC. 690. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.

(a) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(1)) is amended—

(1) by striking ''shall'' and inserting ''may'', and

(2) by striking ''equal to'' and inserting ''not greater than''.

(b) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended to read as follows:

''(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from any fiduciary or other person (or from any other person on behalf of any such fiduciary or other person) with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under paragraph (2) or (5) of subsection (a). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.''.

(c) OTHER RULES.—Section 502(l) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)) is amended by adding at the end the following new paragraph:

''(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

''(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of enactment of this Act.

(2) TRANSITION RULE.—In applying the amendment made by subsection (b) (relating to applicable recovery amount), a breach or other violation occurring before the date of enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 690A. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Subparagraph (A) of section 417(a)(6) is amended by striking ''90-day'' and inserting ''180-day''.

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 to substitute ''180 days'' for ''90 days'' each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

(2) AMENDMENT OF ERISA.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking ''90-day'' and inserting ''180-day''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1)(A) and (2) and the modifications required by paragraph (1)(B) shall apply to years beginning after December 31, 2001.

(b) CONSENT REGULATION INAPPLICABLE TO CERTAIN DISTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) MODEL STATEMENT.—The Secretary of the Treasury shall develop a model statement, written in a manner calculated to be understood by the average plan participant, regarding participants' rights to defer receipt of a distribution and the consequences of so doing, that may be used by plan administrators in complying with the requirements of this section.

(3) EFFECTIVE DATE.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2001.

(c) DISCLOSURE OF OPTIONAL FORMS OF BENEFITS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—Section 417(a)(3) (relating to plan to provide written explanation) is amended by adding at the end the following:

''(C) EXPLANATION OF OPTIONAL FORMS OF BENEFITS.—

''(i) IN GENERAL.—If—

''(I) a plan provides optional forms of benefits, and

''(II) the present values of such forms of benefits are not actuarially equivalent as of the annuity starting date,

then each written explanation required to be provided under subparagraph (A) shall include the information described in clause (ii).

''(ii) INFORMATION.—A plan to which this subparagraph applies shall include sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow the participant to understand the differences in the present values of the optional forms of benefits provided by the plan and the effect the participant's election as to the form of benefit will have on the value of the benefits available under the plan. Any such information shall be provided in a manner calculated to be reasonably understood by the average plan participant.''

(2) AMENDMENT OF ERISA.—Section 205(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)) is amended by adding at the end the following:

''(C)(i) If—

''(I) a plan provides optional forms of benefits, and

''(II) the present values of such forms of benefits are not actuarially equivalent as of the annuity starting date,

then such plan shall include the information described in clause (ii) with each written explanation required to be provided under subparagraph (A).

''(ii) A plan to which this subparagraph applies shall include sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow the participant to understand the differences in the present values of the optional forms of benefits provided by the plan

and the effect the participant's election as to the form of benefit will have on the value of the benefits available under the plan. Any such information shall be provided in a manner calculated to be reasonably understood by the average plan participant.''

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

SEC. 690B. AMENDMENTS REGARDING NATIONAL SUMMIT ON RETIREMENT SAVINGS.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking ''2001 and 2005 on or after September 1 of each year involved'' and inserting ''2001 or 2002, and 2005 and 2009. Such Summit shall be convened in the calendar year 2001 or the first calendar quarter of 2002 and shall be convened on or after September 1 of each year thereafter'';

(2) in subsection (b), by adding at the end the following new sentence: ''To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.).'';

(3) in subsection (e)(2)—

(A) by striking ''Committee on Labor and Human Resources'' in subparagraph (D) and inserting ''Committee on Health, Education, Labor, and Pensions'';

(B) by striking subparagraph (F) and inserting the following:

''(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;'';

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

''(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

''(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

''(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and'';

(4) in subsection (e)(3)(A)—

(A) by striking ''There shall be no more than 200 additional participants.'' and inserting ''The participants in the National Summit shall also include additional participants appointed under this subparagraph.'';

(B) by striking ''one-half shall be appointed by the President,'' in clause (i) and inserting ''not more than 100 participants shall be appointed under this clause by the President,'', and by striking ''and'' at the end of clause (i);

(C) by striking ''one-half shall be appointed by the elected leaders of Congress'' in clause (ii) and inserting ''not more than 100 participants shall be appointed under this clause by the elected leaders of Congress'', and by striking the period at the end of clause (ii) and inserting ''; and''; and

(D) by adding at the end the following new clause:

''(iii) The President, in consultation with the elected leaders of Congress referred to in subsection (a), may appoint under this clause additional participants to the National Summit. The number of such additional participants appointed under this clause may not exceed the lesser of 3 percent of the total number of all additional participants appointed under this paragraph, or 10. Such additional participants shall be appointed from persons nominated by the organization referred to in subsection (b)(2) which is made up of private sector businesses and associations partnered with Government entities to promote long term financial security in retirement through savings and with which the Secretary is required thereunder to consult and cooperate and shall not be Federal, State, or local government employees.'';

(5) in subsection (f)(1)(C), by inserting '', no later than 90 days prior to the date of the commencement of the National Summit,'' after ''comment'' in paragraph (1)(C);

(6) in subsection (g), by inserting '', in consultation with the congressional leaders specified in subsection (e)(2),'' after ''report'';

(7) in subsection (i)—

(A) by striking ''1997'' in paragraph (1) and inserting ''2001''; and

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

''(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph.

''(4) FUNDS AVAILABLE.—Of the funds appropriated to the Pension and Welfare Benefits Administration for fiscal year 2001, $500,000 shall remain available without fiscal year limitation through September 30, 2002, for the purpose of defraying the costs of the National Summit.''; and

(8) in subsection (k)—

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

(B) by striking ''fiscal year 1998'' and inserting ''fiscal years 2001 or 2002, and 2005, and 2009''.

On page 310, strike lines 10 and 11 and insert the following:

Subtitle I—Plan Amendments

SEC. 692. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act, or pursuant to any regulation issued under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2005.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting ''2007'' for ''2005''.

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan); and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

Subtitle J—Compliance With Congressional Budget Act

SA 783. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV add the following:

SEC. ___. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS CONTRIBUTED TO COVERDELL EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 127 (relating to education assistance programs), as amended by section 411(a), is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED COVERDELL EDUCATION SAVINGS ACCOUNT CONTRIBUTIONS.—

''(1) IN GENERAL.—Gross income of an employee shall not include amounts paid or incurred by the employer for a qualified Coverdell education savings account contribution on behalf of the employee.

''(2) QUALIFIED COVERDELL EDUCATION SAVINGS ACCOUNT CONTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified Coverdell education savings account contribution' means an amount contributed pursuant to an educational assistance program described in subsection (b) by an employer to a Coverdell education savings account established and maintained for the benefit of an employee or the employee's spouse, or any lineal descendent of either.

''(B) DOLLAR LIMIT.—A contribution by an employer to a Coverdell education savings account shall not be treated as a qualified Coverdell education savings account contribution to the extent that the contribution, when added to prior contributions by the employer during the calendar year to Coverdell education savings accounts established and maintained for the same beneficiary, exceeds $500.

''(3) SPECIAL RULES.—

''(A) CONTRIBUTIONS NOT TREATED AS EDUCATIONAL ASSISTANCE IN DETERMINING MAXIMUM EXCLUSION.—For purposes of subsection (a)(2), qualified Coverdell education savings account contributions shall not be treated as educational assistance.

''(B) SELF-EMPLOYED NOT TREATED AS EMPLOYEE.—For purposes of this subsection, subsection (c)(2) shall not apply.

''(C) ADJUSTED GROSS INCOME PHASEOUT OF ACCOUNT CONTRIBUTION NOT APPLICABLE TO INDIVIDUAL EMPLOYERS.—The limitation under section 530(c) shall not apply to a qualified Coverdell education savings account contribution made by an employer who is an individual.

''(D) CONTRIBUTIONS NOT TREATED AS AN INVESTMENT IN THE CONTRACT.—For purposes of section 530(d), a qualified Coverdell education savings account contribution shall not be treated as an investment in the contract.''.

(E) FICA EXCLUSION.—For purposes of section 530(d), the exclusion from FICA taxes shall not apply.

(b) REPORTING REQUIREMENT.—Section 6051(a) (relating to receipts for employees) is

amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding at the end the following new paragraph:

''(12) the amount of any qualified Coverdell education savings account contribution under section 127(d) with respect to such employee.''.

(c) CONFORMING AMENDMENT.—Section 221(e)(2)(A) is amended by inserting ''(other than under subsection (d) thereof)'' after ''section 127''.

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

SA 784. Mr. HARKIN (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 1836, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, add the following:

SEC. ___. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED EMERGENCY RESPONSE EXPENSES OF ELIGIBLE EMERGENCY RESPONSE PROFESSIONALS.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals), as amended by this Act, is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. QUALIFIED EMERGENCY RESPONSE EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an eligible emergency response professional, there shall be allowed as a deduction an amount equal to the qualified expenses paid or incurred by the taxpayer during the taxable year.

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

''(1) ELIGIBLE EMERGENCY RESPONSE PROFESSIONAL.—The term 'eligible emergency response professional' includes—

''(A) a full-time employee of any police department or fire department which is organized and operated by a governmental entity to provide police protection, firefighting service, or emergency medical services for any area within the jurisdiction of such governmental entity,

''(B) an emergency medical technician licensed by a State who is employed by a State or non-profit to provide emergency medical services, and

''(C) a member of a volunteer fire department which is organized to provide firefighting or emergency medical services for any area within the jurisdiction of a governmental entity which is not provided with any other firefighting services.

''(2) GOVERNMENTAL ENTITY.—The term 'governmental entity' means a State (or political subdivision thereof), Indian tribal (or political subdivision thereof), or Federal government.

''(3) QUALIFIED EXPENSES.—The term 'qualified expenses' means unreimbursed expenses for police and firefighter activities, as determined by the Secretary.

''(c) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No other deduction or credit shall be allowed under this chapter for any amount taken into account for which a deduction is allowed under this section.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.

''(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2006.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) (relating to adjusted gross income defined), as amended by this Act, is amended by inserting after paragraph (19) the following new paragraph:

''(20) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—The deduction allowed by section 224.''.

(c) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2), 135(c)(4), 137(b)(3), and 219(g)(3), as amended by this Act, are each amended by inserting ''224,'' after ''221,''.

(2) Section 221(b)(2)(C), as amended by this Act, is amended by inserting ''224,'' before ''911''.

(3) Section 469(i)(3)(E), as amended by this Act, is amended by striking ''and 223'' and inserting '', 223, and 224''.

(4) The table of sections for part VII of subchapter B of chapter 1, as amended by this Act, is amended by striking the item relating to section 223 and inserting the following new items:

''Sec. 224. Qualified emergency response expenses.

''Sec. 225. Cross reference.''.

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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, May 22, at 1:30 p.m., in the President's Room, to conduct a full committee markup of the nominations of Ms. Mary Waters, Mr. J.B. Penn, Mr. Lou Gallegos, Mr. Eric Bost, and Mr. William Hawks for the U.S. Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 22, 2001, at 2 p.m., SD–419, to hold a hearing, as follows: Mr. Lorne W. Craner, of Virginia, to be Assistant Secretary of State for Democracy, Human Rights, and Labor, to be introduced by the Honorable JOHN MCCAIN (R–AZ); the Honorable Donald Burnham Ensenat, of Louisiana, to be Chief of Protocol, with Rank of Ambassador, to be introduced by the Honorable JOHN B. BREAUX (D–LA); Mr. Carl W. Ford, Jr., of Arkansas, to be Assistant Secretary of State for Intelligence and Research, to be introduced by the Honorable John Glenn (D–OH), former Member, U.S. Senate; the Honorable Ruth A. Davis, of Georgia, to be Director General of the Foreign Service; and Mr. Paul Vincent Kelly, of Virginia, to be Assistant Secretary of State for Legislative Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE AND TOURISM

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 22, 2001, at 2:30 p.m., on prescription drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration be authorized to meet to conduct a hearing on Tuesday, May 22, 2001, at 2 p.m., in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the Democratic leader, pursuant to Public Law 106–554, appoints the Senator from Massachusetts (Mr. KERRY) to the Board of Directors of the Vietnam Education Foundation.

The Chair, on behalf of the President pro tempore, upon the recommendation of the majority leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, reappoints Michael K. Young, of Washington, D.C., to the United States Commission on International Religious Freedom.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, in executive session, I ask unanimous consent that the Senate proceed to the consideration of the following nominations: Nos. 43, 79, 80, 81, 82, 86, 89, 90, 91, 92, 93, 94, and 95.

In addition, I ask unanimous consent that the nomination of William Hansen (PN 274) be discharged from the HELP Committee and, further, that the Senate proceed to its consideration as well.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Lincoln P. Bloomfield, Jr., of Virginia, to be an Assistant Secretary of State (Political-Military Affairs).

DEPARTMENT OF ENERGY

Bruce Marshall Carnes, of Virginia, to be Chief Financial Officer, Department of Energy.

David Garman, of Virginia, to be an Assistant Secretary of Energy (Energy Efficiency and Renewable Energy).

Francis S. Blake, of Connecticut, to be Deputy Secretary of Energy.

Robert Gordon Card, of Colorado, to be Under Secretary of Energy.

DEPARTMENT OF DEFENSE

Gordon England, of Texas, to be Secretary of the Navy, vice Richard Danzig.

SELECTIVE SERVICE SYSTEM

Alfred Rascon, of California, to be Director of Selective Service, vice Gil Coronado, resigned.

AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Van P. Williams, Jr., 0000

DEPARTMENT OF AGRICULTURE

Lou Gallegos, of New Mexico, to be an Assistant Secretary of Agriculture.

Mary Kirtley Waters, of Virginia, to be an Assistant Secretary of Agriculture.

Eric M. Bost, of Texas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

William T. Hawks, of Mississippi, to be Under Secretary of Agriculture for Marketing and Regulatory Programs.

J.B. Penn, of Arkansas, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

DEPARTMENT OF EDUCATION

William D. Hansen, of Virginia, to be Deputy Secretary of Education, vice Frank S. Hollerman III, resigned.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate action on Executive Calendar Nos. 79 to 82 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

CONGRATULATING THE UNIVERSITY OF MINNESOTA FOR 150 YEARS OF OUTSTANDING SERVICE TO MINNESOTA

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 93, submitted earlier today by Senators WELLSTONE and DAYTON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 93) congratulating the University of Minnesota, its faculty, staff, students, alumni, and friends for 150 years of outstanding service to the State of Minnesota, the Nation, and the world.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 93) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Submitted Resolutions.'')

NATIONAL EMERGENCY MEDICAL SERVICES WEEK

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 40, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 40) expressing the sense of the Congress regarding the designation of the week of May 20, 2001, as ''National Emergency Medical Services Week.''

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 40) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 40

Whereas emergency medical services are a vital public service;

Whereas the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, 7 days a week;

Whereas access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury;

Whereas providers of emergency medical services have traditionally served as the safety net of America's health care system;

Whereas emergency medical services teams consist of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others;

Whereas approximately two-thirds of all emergency medical services providers are volunteers;

Whereas the members of emergency medical services teams, whether career or volunteer, undergo thousands of hours of specialized training and continuing education to enhance their lifesaving skills;

Whereas Americans benefit daily from the knowledge and skills of these highly trained individuals; and

Whereas injury prevention and the appropriate use of the emergency medical services system will help reduce health care costs: Now, therefore, be it

(Resolved by the Senate (the House of Representatives concurring), That—

(1) the week of May 20, 2001, is designated as ''National Emergency Medical Services Week'';

(2) the President should issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

AUTHORIZING THE USE OF THE EAST FRONT OF CAPITOL GROUNDS FOR PERFORMANCES SPONSORED BY THE KENNEDY CENTER

AUTHORIZING THE USE OF THE CAPITOL GROUNDS FOR THE WASHINGTON SOAP BOX DERBY

AUTHORIZING THE 2001 DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN ON CAPITOL GROUNDS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the consideration of House Concurrent Resolutions 76, 79, and 87, which are at the desk.

I announce that these three concurrent resolutions authorize the use of the Capitol grounds for three separate events.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 76) authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

A concurrent resolution (H. Con. Res. 79) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

A concurrent resolution (H. Con. Res. 87) authorizing the 2001 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

There being no objection, the Senate proceeded to consider the concurrent resolutions en bloc.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the resolutions be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (H. Con. Res. 76, H. Con. Res. 79, and H. Con. Res. 87) were agreed to.

AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 41, submitted earlier today by Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 41) authorizing the use of the Capitol Grounds for the National Book Festival.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 41) was agreed to.

(The text of the concurrent resolution is located in today's RECORD under ''Submitted Resolutions.'')

FALLEN HERO SURVIVOR BENEFIT FAIRNESS ACT OF 2001

Mr. GRASSLEY. Mr. President,I ask unanimous consent that the Senate proceed to the consideration of H.R. 1727, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1727) to amend the Taxpayer Relief Act of 1997 to provide consistent treatment of survivor benefits for public safety officers killed in the line of duty.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing the Fallen Hero Survivor Benefit Fairness Act as part of Economic Growth and Tax Relief Reconciliation Act.

Last night, I voted for the Smith amendment to add the Fallen Hero Survivor Benefit Fairness Act to the reconciliation tax package, and I am proud to cosponsor the Senate companion bill, S. 881, introduced by the senior Senator from Utah. Since the House of Representatives passed the Fallen Hero Survivor Benefit Fairness Act, H.R. 1727, on May 15, 2001, by a vote of 419–0, I am hopeful that this legislation to support the families of our nation's public safety officers will soon become law.

This legislation extends present-law treatment of survivor annuities for public safety officers killed in the line of duty on or before December 31, 1996. It is needed to correct a harsh inequity in the tax code that treats some survivors of slain public safety officers differently than others based on the date of the officer's death. That is unconscionable.

The Taxpayer Relief Act of 1997 provided that a survivor annuity paid on account of the death of a public safety officer who is killed in the line of duty is excluded from income for individuals dying after December 31, 1996. The survivor annuity must be provided under a government plan to the surviving spouse of the public safety officer or to a child of the officer. Public safety officers include law enforcement officers, firefighters, rescue squad or ambulance crew. But the family members of public safety officers killed before January 1, 1997 are fully taxed on their survivor annuities.

I believe that survivors of public safety officers killed in the line of duty should all receive the same tax treatment. We should do all we can to support the families of public safety officers killed in the line of duty. Basic fairness demands it.

I look forward to the Fallen Hero Survivor Benefit Fairness Act becoming law. It is only right that our Nation's tax laws support the families of public safety officers who gave the ultimate sacrifice to make America a safer place.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1727) was read the third time and passed.

ORDERS FOR WEDNESDAY, MAY 23, 2001

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, May 23. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will continue voting on reconciliation amendments as we have done for the past 19½ consecutive Senate hours. Votes will occur every 10 to 15 minutes until otherwise notified. It is hoped the Senate can pass this important tax bill early tomorrow so we can resume consideration of the education bill in a timely manner. Votes can be expected throughout the week.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator GRASSLEY and Senator DODD.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIPARTISANSHIP

Mr. GRASSLEY. Mr. President, we voted on 3 amendments last week, 17 amendments yesterday, 27 amendments today. That is an awful lot of amendments on a bill that should have been done after 20 hours, plus a few votes.

We have had a flood of amendments, and almost all of them have come from the other party. Not one amendment from the other party has passed yet. That is after 3 last week, 17 yesterday, and 27 today. When is enough enough?

I ask this question in the spirit of bipartisanship that Senator BAUCUS and I have worked on since the first of the week and the entire work of the Senate Finance Committee, in the spirit of how the Finance Committee has always worked, and also in the spirit of the bipartisanship talked about 5 months ago in the new Congress. Why in the new Congress? Because it is the first time in 120 years the Senate has been evenly divided.

I hope that bipartisanship is not dead. But if bipartisanship is dead and buried within the last 5 months of this new Congress, I have not been invited to the funeral, and I don't think Senator BAUCUS was invited either. Senator BAUCUS and I have been working on this tax bill since January. That was right around the time the leaders of this body worked out power sharing. We all knew from the beginning that shared power brings shared responsibility. Where is the responsibility to get the people's work done? Where is the responsibility to finish legislation that has been worked upon for months by a committee of this Senate, one of the most powerful committees of this Senate? Where is the responsibility to finish legislation that is the product of the bipartisanship that is known to be a product of the Finance Committee or the bipartisanship that was asked for in January? Where is the responsibility to finish legislation that has ample bipartisan support to pass?

When this bill finally gets to that final rollcall vote, people are going to be shocked how many people are going to vote for this bill on final passage. Bipartisan, again.

Then, in the meantime, we are putting up with 27 rollcalls today, 17 rollcalls yesterday, 3 rollcalls last Thursday. Three long days of work on this bill, and we still do not see light at the end of the tunnel because there are stalling tactics that for some reason or another go beyond the protection of a minority within the Senate.

I don't argue with that protection of the minority. There is only one political institution in the United States Government where minority views are protected. Those are in the Senate of the United States. There are all sorts of rules to protect the minority. But there also can be abuse of the protection that is granted the minority, way beyond what was ever intended by the people who wrote our Constitution or established the traditions and the rules of the Senate. There is a time when statesmanship has to be above pure politics meant to kill tax relief for American taxpayers, a tax relief that is the third greatest in the last 50 years and the greatest in the last 20 years.

There has to be a time when examples of bipartisanship have to be followed by those who are calling for bipartisanship. I think Senator BAUCUS and I have established a good tradition of bipartisanship, a tradition of bipartisanship that I hope will not only help get a bipartisan vote on this bill tomorrow or the next day, a bipartisan vote on a product coming out of conference but, more importantly, as I said in my opening remarks last Thursday on this bill, a bipartisanship that will continue for many important issues that this Senate has to work on the rest of this year and next year. There is a long list of trade legislation our committee must produce. There is the issue that was most important in the Presidential campaign of both candidates: prescription drugs for seniors and how that impacts upon the whole Medicare program. There are the problems of dealing with the uninsured, the people who do not have health insurance. That is something that was involved in candidate Gore's campaign and Candidate Bush's campaign with which we must deal.

There are issues of helping with tax incentives for people to save and to have better opportunities for pensions. There are the issues dealing with tax credits for higher education and the issue of education savings accounts.

You can go on and on. But most of the major issues were part of the Presidential campaign, and for the most part to some degree or another were part of the campaigns of each candidate for President in the last election. Consequently, they have a right to be on the agenda. We have a responsibility to make sure they are not only on the agenda but are carried out.

So I hope what Senator BAUCUS and I have been working on since the first of the year will help produce further agreements. Some of them may be even more important than this tax bill.

I yield the floor.

RELIEF ACT

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I know the hour is late. I am deeply appreciative of the floor staff of this body. They worked late last night and late again today. We started some 12 hours ago, so I will try to keep these remarks relatively brief, if I can.

It has been a little frustrating for this Member, and I suspect others over the past day or so, as we have dealt with what arguably would be the most significant piece of legislation we are likely to deal with for the next decade. And that legislation is the tax bill that is before us. So I wanted to take a few minutes to review the bidding, if I could, over what has happened over the last couple of days. I'd like to review where we are and why there are so many of us who have expressed our concerns about the direction of this legislation, its substance, and its priorities.

It is not that those of us here object to a tax cut. In fact, the overwhelming majority of Democrats and Republicans support a tax cut. That is not the issue. The issue is the makeup of this tax cut. The issue is the fairness of it, its distribution, and its size. And one of the most significant issues is the inability to predict with any certainty what economic conditions will look like 5 years from now, 3 years from now, let alone 10 years from now, where much of this bill is backloaded and when the effects of it will be felt the most.

I want to spend a few minutes and just go over, if I could, some of the amendments we have considered today.

First of all, let me point out that it has been said by some that we have had stalling amendments—27 amendments considered today, 17 yesterday, 3 the day before. We had a total of 20 hours of debate on this bill, less than 1 calendar day of actual debate on this bill. You were allowed to have 1 minute to explain an amendment and 1 minute to rebut that amendment. So as we have considered some 47 amendments over the last 3 days, there has hardly been the kind of deliberative debate one normally associates with the U.S. Senate.

There has been this abbreviated, truncated approach because that is all you are allocated under a reconciliation bill that gives you 20 hours: 20 hours to debate what arguably may be the single most important piece of economic legislation that this or succeeding Congresses will deal with for the coming decade or beyond. Twenty hours, less than 1 day.

I am one of a handful of people in this Chamber who was present 20 years ago. I see my friend from Delaware in the Chamber. He was present in the Chamber 20 years ago when we considered a tax cut of equal magnitude but of far less divisiveness. In fact, I think there were 10 or 11 of us who voted against that tax bill for the reasons that it would contribute to expanding the size of the national debt; would result in consumers paying higher interest rates for automobiles, for college loans, for homes; that we would end up in the red ink; and that our Nation would suffer economically.

At least back in 1981 we had 12 days of debate—not 20 hours. We had 12 days of debate on that bill.

Mr. BIDEN. Will the Senator yield on that one point?

Mr. DODD. I will be happy to yield.

Mr. BIDEN. The Senator, if I am not mistaken, was one of only 10 or so who voted no. The Senator from Delaware voted yes on that amendment. I have cast over 10,000 votes as a U.S. Senator. It was one of the two votes I most regret ever having cast. The other one was voting for a fine, decent man, Supreme Court Justice Scalia. I regret that because his view turned out to be so fundamentally different than my view of the Constitution.

One of the reasons why I think what the Senator is saying is so important is it took the Senator from Connecticut and the Senator from Delaware—you doing the right thing in the first instance, me making a mistake—it took us almost 20 years to bail out. I have the scars on my back, as does the Senator. He did not deserve them, I do—for the efforts we had to undertake to put the budget back in shape.

We did that at a time when we had expanding productivity, when we had a lot of unmet capacity in the country, when, in fact, we were moving—there was a chance to rectify it. There will be no chance because when this kicks in—and I am going to sit down—when this kicks in, because it is the same time guys like the Senators from Connecticut and Delaware, the baby boom generation, are going to be retiring.

Mr. DODD. That is right.

Mr. BIDEN. We are going to be in real trouble.

So I hope, I say to the new Senators on the floor, they do not make the same mistake this senior Senator did almost 20 years ago; that is, vote for something such as this. We will pay a dear price in this country for this vote.

I compliment the Senator on his comments tonight, as well as his vote in the 1980s. I wish I had the foresight he had to know what was going to happen.

Mr. DODD. I thank my colleague for those comments. Out of those 10,000 votes he cast, by far, there were many more good ones. I appreciate his comments this evening.

Mr. President, I stood in that debate. I remember the debate well. When you compare this week's debate to that debate of 20 years ago when we had something like 115 or 116 amendments, maybe more, they were fully debated amendments. We had the give and take, back and forth over the wisdom or demerits of the various proposals. That is not what has taken place here today.

Imagine what it looks like to the American public as they watched these last couple of days. We were placed in a situation of allowing only 20 hours of debate under a reconciliation process that never contemplated that a tax cut proposal would be a part of it. Reconciliation was used and designed to reduce deficits, not to add to them.

So by choosing the limitation of 20 hours, you have then forced Members of this body to offer votes in what they call a vote-arama; that is, no time for debate, just offer the amendment and vote.

So it has been tremendously distressing for Members who believe this bill needs to be modified substantially before it would enjoy the kind of truly broad bipartisan support of which the chairman of the committee speaks. That has not occurred. So we have had 20 hours of debate, that is it, on a bill of such magnitude and such significance that will crowd out our ability to invest intelligently in the needs of this country.

Let me just briefly describe this tax bill. More than one-third of a $4 trillion

tax cut over the next 10 years will go primarily to the top 1 percent of income earners in America. The second one-third goes to the top 9 percent of income earners in America. But if you are in the 15-percent tax bracket, you get no relief. Of all the brackets that exist that is the one that gets no tax cut at all. Mr. President, that is 72 million middle-income Americans. So if you are watching this evening or listening to this discussion and you fall into that category, this tax debate has nothing to do with you.

Two-thirds of this tax debate involves the top 9 percent of income earners in America. As a result of wasting $4 trillion, here are the things we are deciding are of less significance, just so you know. Most Americans were working today probably did not have the chance to tune into this debate. So let me just review for them what happened.

These are some of the amendments that this body considered today. This is what some of these amendments asked: Can we reduce the size of this tax cut for the most affluent Americans by 1 percentage point in order to fund a prescription drug benefit for the millions of seniors in this country who are being swamped by the cost of prescription drugs?

This body said: No, we think providing a tax cut for the top 1 percent of income earners is of a higher priority than providing the prescription drug benefit for Americans.

We asked how about doing something to protect Social Security and Medicare, because as my colleague from Delaware just absolutely correctly pointed out, the baby boom generation retires when the very worst aspects of this bill kick in. This body said no.

This bill is like a time-release capsule. You have all heard of time-release medicines. You take the medication, and nothing happens in the first 5 hours, or very little happens. Then, in the second 5 hours, the time release produces the kind of benefits that would attack whatever problem you are suffering from.

That is what this tax bill is. The first 5 years are relatively modest, in terms of their impact. It is when the second 5 years kick in, that this tax cut becomes overwhelming in its impact on our budget. That is exactly the time that you will have an overwhelming majority of baby boomers retiring and who will need Social Security and Medicare.

It is not by accident that this tax bill was written that way. It was designed specifically to create the train wreck between the retiring baby boom generation and this tax cut. This is not coincidental. This is what we have been trying to say over and over, with 1 minute discussions of these amendments. It is not the fault of the American public. How do you get to understand the impact of an amendment when you only have 60 seconds to describe the long-term effects of it?

Consider, if you will, the full funding for the Elementary and Secondary Education Act. We have debated over and over the importance of full funding for elementary and secondary education.

Mr. President, I ask unanimous consent to proceed for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, is so ordered.

Mr. DODD. Mr. President, I want to respond to some of the things that were said earlier, just to kind of bring this to closure from this Senator's perspective, if I may, and I ask for an additional 10 minutes.

The PRESIDING OFFICER. The Chair will not object.

Mr. BIDEN. Will the Senator yield for a very brief question. Will the Senator agree with me that if you want to know what a country values, you should take a look at what its Tax Code says—who it makes pay, and what its budget is. I respectfully suggest that everything the Senator is saying—and I hope he continues to speak—reflects a fundamental difference in values—not just priorities, a fundamental difference in values between those who support this bill—they are not bad votes. It is not good and evil; it is a different value judgment. This tax bill neither reflects my priorities nor my values.

The Senator has laid out a number of items. He is going to lay out more. How do we explain that everybody in the Tax Code who is in a certain income tax bracket gets relief except people in the 15-percent tax bracket? How do you do that? It is a value judgment.

I assume our friends think, if you give the wealthier people a cut, and not the middle-income people and the little guy, that somehow that is going to trickle down. That is a value judgment, a fundamental value judgment.

How do we stand around and say, somebody who receives $100 million in inheritance should get a tax break when, at the same time, it is going to be paid for out of Social Security and Medicare surpluses? This is about values.

So I guess it is less a question than a statement. I hope the Senator lays out every one of these things because I think it is important the public understand so they can make clear choices. What do they value the most? This is a value judgment.

My friends on the other side always talk about values. Well, let me tell you, this is where the rubber meets the road. This reflects our values. I am where the Senator from Connecticut is. I hope he continues to educate me and the public about it. Make no mistake about it. It is not just priorities; it is about our basic values, what we value most.

Mr. DODD. I thank my colleague.

Mr. President, if I may, I ask unanimous consent for 10 minutes at this point to complete my thoughts.

The PRESIDING OFFICER. With great indulgence, the Chair consents.

Mr. DODD. I thank the Chair.

Mr. President, to continue with these charts behind me, I mentioned the rate cut for 72 million Americans, from 15 to 14 percent. We cut the top rate of income earners at the very top of the income brackets of America, and every bracket on down, except the lowest one, which affects 72 million Americans.

You go on down the list. College tuition deductibility: The Senator from New York, Mr. SCHUMER, suggested, why not provide deductibility of the high cost of college tuition? That amendment was rejected.

You go on down the list. Immediate marriage penalty relief: How often have we heard about the penalties of the marriage penalty tax? We want to provide immediate relief for that. We are told no.

So offering these amendments during the day in this Chamber is not dilatory. These are not amendments that are designed to stall at all. Twenty hours of debate on a bill of this size, of this importance, is inadequate. This is not the House of Representatives. This is not some chamber in which just a handful, if you will, even a slight majority, should be able to dictate entirely what they will at the expense of those who have other points of view—even if it were only one. But when the points of view reflect almost 50 percent of this body, shouldn't those points of view be taken into consideration? We have been told repeatedly throughout consideration of this bill that we have to get this done. I don't disagree. But I don't think that we should rush action on this important legislation without taking thoughtful consideration of its potential impact on the future health and growth of our economy. I do not think that is quite right.

Some of the most important debates we have had in this Chamber have been lengthy. They have been unfettered with time constraints on offering amendments over a 60-second period. We had a debate a few weeks ago on campaign finance reform. It took 2 weeks. Most Members, I think, recognize it as one of the better debates in this Chamber. We did not do it in 20 hours. We did it in 2 weeks.

We have had debates in the past on any number of issues that have taken days. That is the unique nature of this body. That is the role of the Senate: not to act as some body where it is only a question of getting it done as fast as you can. This is the middle of May. It is not the end of the session. We have had a new administration in town for 16 weeks. This is a bill that we are considering that will have impacts for 10 years.

So when Members bring up these alternative ideas of fair and fiscally responsible tax cuts, the answer has been no. When we say, Social Security reform and debt reduction are important, the answer has been no. When we say

we want to take care of spending caps, veterans benefits, middle-class tax benefits, the answer has been no.

That is not being frivolous. That is not being petulant. That is not being people who are in a tantrum, as someone said today. This is not about Democrats and Republicans. It is not a battle about the Presidency and the Senate Democrats here. It is about the American public. They are the ones who will live with the circumstances and the decisions that we make in this body over the next few days for many, many years to come. They are the ones who we have to keep in mind as we draft this legislation.

There is no argument about having a tax cut. There is room in this surplus for a tax cut. But there ought to be room, as well, to reduce the national debt.

We pay $220 billion a year in interest payments on the national debt. Think how many classrooms could be built, how many people who could be made healthy, how many houses could be constructed, how many water systems or sewage systems could be repaired or built with the $220 billion that goes to interest payments on the national debt. It does not construct anything. It does not help anybody. All it does is pay down on our financial obligations.

There is a great risk with the adoption of this tax proposal that we will be back in red ink and in debt again. Interest rates will begin to climb just as we saw in the 1980s. As those interest rates go up, the cost of an automobile, the cost of a home, the cost of a child going on to college, goes up. Then remember this debate and remember what this body did. This body has acted in a way, in my view, that is irresponsible and unmindful of the cost to this society.

That is why it is important for us to take some time and think about what we are doing, and offer some alternative ideas that can improve the quality of life for people.

So when it comes to prescription drugs, the Patients' Bill of Rights, elementary and secondary education, Medicare, Social Security, the infrastructure of this country, the defense needs of America, the environmental needs of America, there will be no room in the budget of the United States if this tax proposal is adopted.

I am alone in this Senate Chamber this evening, with the exception of the Presiding Officer. It is late. It has been a long day. I am tired, as my colleagues are. But I wanted to take these few minutes to review, as I said, what occurred here today and yesterday because I think it is so fundamentally and profoundly important.

My hope is that people might speak up in the remaining 24 or 48 hours that we have before we vote on final passage of this bill and leave for the recess. I hope that people can express themselves and ask their Members to think twice before they adopt a $4 trillion tax cut, the effects of which are cloudy at best, and is predicted by many to have dire consequences 10 years down the road. Who can say in 10 years what the economy will look like?

There is an energy crisis looming on the horizon. What will be the impact of that on this economy? We are told the administration wants to increase defense spending by as much as $100 billion or $200 billion. What is the impact of that on this economy? And here we are adopting a $4 trillion tax cut. All of these events are coming together, and yet we are also told we need to invest in education, in health care, and the infrastructure of America. But where are the resources going to come from?

It just doesn't add up. The math isn't there. We are told under the Elementary and Secondary Education Act that we are going to have a math test for every third, fourth, fifth, sixth, seventh and eighth grader. I suggest we need a math test here because these numbers don't add up. A third, fourth, fifth or sixth grader would tell you that: Add these numbers, and they don't produce a balanced budget or a surplus. They put this country in great economic peril.

That is why I take the floor this evening, to express my outrage and concern about what we are doing: 20 hours of debate, and then a vote-a-rama with 1 minute to describe or offer some explanation of an amendment that might make a difference on prescription drugs, on education, on Medicare, on middle-income Americans, 1 minute.

These amendments and these votes will not be forgotten. They will not be forgotten.

It has been said by philosophers that those who fail to remember the mistakes of history are doomed to repeat them, or words to that effect. Not unlike Cassandra of mythological note, for those of us who were here 20 years ago, I beg and beseech my colleagues who are relatively new: We don't tell you these things out of some sense of nostalgia. Twenty years ago, I heard the same arguments being made about the wisdom of a tax cut that was too big, too excessive. The overwhelming majority of our colleagues in the Senate and in the other Chamber disregarded those warnings and voted for a tax proposal that ultimately put this economy in a tailspin. As the Senator from Delaware has noted, it has only been during the last few years that we have recovered from it.

I deplore what is occurring here. I plead with my colleagues: Modify this tax cut proposal. There is room for a decent, strong tax cut that would provide benefits to almost all Americans while also providing room to pay down the debt and to invest in the needed investments of our country in education and health care and the infrastructure of America, to mention just three. There ought to be room to do all three of those things.

Adopting a tax cut that is too big is not unlike adopting a spending program that is too big. Imagine what we would be saying here today if someone were talking about a spending program of $4 trillion over the next 10 years. We would be saying: How do you know whether or not we can afford it 10 years from now? What will the economic conditions be in America 10 years from now?

It would be foolish to commit the resources of this country without having some idea of what the economic circumstances would be in our Nation.

Is it any less foolish to commit ourselves to a $4 trillion tax cut unknowing of what the economic circumstances will be 2, 3, 4, or 5 years from now? The answer is obvious.

For those reasons, I hope Americans across this country will raise their voices, will let Members know how they feel about this proposal, will express their worry that we may be adopting a proposal that will cause this country serious harm.

I apologize for taking a few minutes this evening, but we have not had time today to engage in debate. All we have had is 1 minute to offer amendments.

There are now recorded votes on where people stand on the issue of health care, education, Medicare, Social Security, transportation, and a variety of other issues about which the American public cares.

For those reasons, I urge my colleagues to rethink this proposal. It is only May. Step back, rethink this, develop a truly bipartisan proposal. Come back and ask us to rethink how we might fashion a proposal that would provide tax cuts for Americans as well as leave room for the other necessities of this Nation: Its defense needs, its educational needs, its health care needs. Those needs contribute to the long-term security of America as well. Leaving them to be crowded out, as we are on this day in May, this early on in this new century, is a mistake of historic proportions.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. on Wednesday, May 23, 2001.

Thereupon, the Senate, at 10:13 p.m., adjourned until Wednesday, May 23, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 22, 2001:

EXPORT-IMPORT BANK OF THE UNITED STATES

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005, VICE JACKIE M. CLEGG, TERM EXPIRED.

FEDERAL DEPOSIT INSURANCE CORPORATION

DONALD E. POWELL, OF TEXAS, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF FIVE YEARS, VICE DONNA TANOUE.

DONALD E. POWELL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT

INSURANCE CORPORATION FOR A TERM OF SIX YEARS, VICE DONNA TANOUE, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANET HALE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE JOHN JOSEPH CALLAHAN, RESIGNED.

DEPARTMENT OF STATE

WENDY JEAN CHAMBERLIN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

WILLIAM S. FARISH, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

FRANCIS XAVIER TAYLOR, OF MARYLAND, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE, VICE MICHAEL A. SHEEHAN.

DEPARTMENT OF THE INTERIOR

NEAL A. MCCALEB, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE KEVIN GOVER.

DEPARTMENT OF JUSTICE

THOMAS L. SANSONETTI, OF WYOMING, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE LOIS JANE SCHIFFER, RESIGNED.

THE JUDICIARY

LAVENSKI R. SMITH, OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE RICHARD S. ARNOLD, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN A. VAN ALSTYNE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. BYRON S. BAGBY, 0000
COL. LEO A. BROOKS JR., 0000
COL. SEAN J. BYRNE, 0000
COL. CHARLES A. CARTWRIGHT, 0000
COL. PHILIP D. COKER, 0000
COL. THOMAS R. CSRNKO, 0000
COL. ROBERT L. DAVIS, 0000
COL. JOHN DE FREITAS III, 0000
COL. ROBERT E. DURBIN, 0000
COL. GINA S. FARRISEE, 0000
COL. DAVID A. FASTABEND, 0000
COL. RICHARD P. FORMICA, 0000
COL. KATHLEEN M. GAINEY, 0000
COL. DANIEL A. HAHN, 0000
COL. FRANK G. HELMICK, 0000
COL. RHETT A. HERNANDEZ, 0000
COL. MARK P. HERTLING, 0000
COL. JAMES T. HIRAI, 0000
COL. PAUL S. IZZO, 0000
COL. JAMES L. KENNON, 0000
COL. MARK T. KIMMITT, 0000
COL. ROBERT P. LENNOX, 0000
COL. DOUGLAS E. LUTE, 0000
COL. TIMOTHY P. MCHALE, 0000
COL. RICHARD W. MILLS, 0000
COL. BENJAMIN R. MIXON, 0000
COL. JAMES R. MORAN, 0000
COL. JAMES R. MYLES, 0000
COL. LARRY C. NEWMAN, 0000
COL. CARROLL F. POLLETT, 0000
COL. ROBERT J. REESE, 0000
COL. STEPHEN V. REEVES, 0000
COL. RICHARD J. ROWE JR., 0000
COL. KEVIN T. RYAN, 0000
COL. EDWARD J. SINCLAIR, 0000
COL. ERIC F. SMITH, 0000
COL. ABRAHAM J. TURNER, 0000
COL. VOLNEY J. WARNER, 0000
COL. JOHN C. WOODS, 0000
COL. HOWARD W. YELLEN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. EDMUND P. GIAMBASTIANI JR., 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate May 22, 2001:

DEPARTMENT OF STATE

LINCOLN P. BLOOMFIELD, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (POLITICAL-MILITARY AFFAIRS).

DEPARTMENT OF DEFENSE

GORDON ENGLAND, OF TEXAS, TO BE SECRETARY OF THE NAVY.

SELECTIVE SERVICE SYSTEM

ALFRED RASCON, OF CALIFORNIA, TO BE DIRECTOR OF SELECTIVE SERVICE.

DEPARTMENT OF AGRICULTURE

LOU GALLEGOS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

MARY KIRTLEY WATERS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

ERIC M. BOST, OF TEXAS, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

WILLIAM T. HAWKS, OF MISSISSIPPI, TO BE UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS.

J. B. PENN, OF ARKANSAS, TO BE UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

DEPARTMENT OF EDUCATION

WILLIAM D. HANSEN, OF VIRGINIA, TO BE DEPUTY SECRETARY OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. VAN P. WILLIAMS JR., 0000