By Mr. McCAIN (for himself, Mr. JEFFORDS, and Mr. DASCHLE):

S. 163. A bill to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCAIN:

S. 164. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN):

S. 165. A bill to improve air cargo security; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN:

S. 166. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

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

S. 167. A bill to direct the Secretary of Energy to carry out a Next Generation Lighting Initiative; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 168. A bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KYL:

S. 169. A bill to permanently repeal the estate and generation-skipping transfer taxes; to the Committee on Finance.

By Mr. VOINOVICH:

S. 170. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and further purposes; to the Committee on Environment and Public Works.

By Mr. DAYTON:

S. 171. A bill to amend title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes; to the Committee on Finance.

By Mr. DAYTON:

S. 172. A bill to amend title XVIII of the Social Security Act to improve the access of medicare beneficiaries to services in rural hospitals and critical access hospitals, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. JEFFORDS, Mr. CORZINE, Mr. BIDEN, and Mr. DURBIN):

S. 173. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Finance.

By Mr. BIDEN:

S. 174. A bill to put a college education within reach, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 175. A bill to establish a direct line of authority for the Office of Trust Reform Implementation and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determination Act and for other purposes; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DASCHLE:

S. Res. 20. A resolution making minority appointments to certain Senate committees for the 108th Congress; considered and agreed to.

By Mr. DASCHLE:

S. Res. 21. A resolution expressing the thanks of the Senate to the Honorable Robert C. Byrd for his service as President Pro Tempore of the United States Senate and to designate Senator Byrd as President Pro Tempore Emeritus of the United States Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 19

At the request of Mr. DASCHLE, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 19, a bill to amend the Internal Revenue Code of 1986 and titles 10 and 38, United States Code, to improve benefits for members of the uniformed services and for veterans, and for other purposes.

S. 36

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 36, a bill to amend title XVIII of the Social Security Act to eliminate the geographic physician work adjustment factor from the geographic indices used to adjust payments under the physician fee schedule, to provide incentives necessary to attract educators and clinical practitioners to underserved areas, and to revise the area wage adjustment applicable under the prospective payment system for skilled nursing facilities.

S. 120

At the request of Mrs. HUTCHISON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 120, a bill to eliminate the marriage tax penalty permanently in 2003.

S. 121

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. 121, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 145

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 145, a bill to prohibit assistance to North Korea or the Korean Peninsula Development Organization, and for other purposes.

S. 151

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 151, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. RES. 19

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 19, A resolution expressing the sense of the Senate that Congress should increase the maximum individual Federal Pell Grant award to $9,000 by 2010.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 162. A bill to provide for the use of distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes; to the Committee on Indian Affairs.

Mr. McCAIN. Mr. President, I rise to introduce legislation to authorize the distribution of judgment funds to eligible tribal members of the Gila River Indian Community in Arizona. Identical legislation unanimously passed the Senate last year, but was not able to be considered by the House of Representatives prior to the adjournment of the 107th Congress.

The Gila River Indian Community Judgment Fund Distribution Act resolves two half-century old claims by the Gila River tribe against the United States for failure to meet Federal obligations to protect the community's use of water from the Gila River and Salt River in Arizona. The original complaint was filed before the Indian Claims Commission on August 8, 1951. In 1982, the United States Court of Claims confirmed liability of the United States to the community, and recently the settlement of these two claims was determined to be 7 million.

So much time has passed that the Indian Claims Commission formerly in charge of fund distributions no longer exists. However, a debt does not disappear. The judgment award has since been transferred from the Indian Claims Commission to a trust account on behalf of the community, managed by the Office of Trust Management at the Department of the Interior.

This judgment award was certified by the Treasury Department on October 6, 1999 for the final portion of the litigation to the two remaining dockets of the Gila River Indian Community. Since that time, the community has been working with the BIA in an attempt to finalize a use and distribution plan to submit to Congress for approval. As outlined in its plan, the community has decided to distribute the judgment award equally to eligible tribal members.

The purpose of this legislation is to comply with Federal regulations which requires congressional approval for distribution of judgment funds to tribal members. The terms of the legislation reflect an agreement by all parties for a distribution plan for final approval by the Congress. As part of this legislation, the BIA is also seeking to resolve remaining expert assistance loans by the Gila River Indian Community, the Oglala Sioux Tribe, and the Seminole Tribe of Florida, as originally authorized by the Indian Claims Commission.

Members of the Gila River Indian Community have waited half a century for final resolution of all their legal claims regarding this matter. After considerable delay, it is only fair to resolve this matter and provide compensation as soon as possible. I hope that my colleagues will act quickly to move this legislation through the process.

By Mr. McCAIN (for himself, Mr. JEFFORDS, and Mr. DASCHLE):

S. 163. A bill to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes; to the Committee on Environment and Public Works.

Mr. McCAIN. Mr. President, I am pleased to introduce legislation to continue Federal support for the U.S. Institute for Environmental Conflict Resolution. This legislation is identical to legislation which passed the Senate unanimously in September of last year.

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

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

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

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

The Institution also assisted in facilitating interagency temawork for the Everglades Task Force which oversees the South Everglades Restoration Project. The U.S. Forest Service requested assistance to bring ranchers and environmental advocates in the southwest to work on grazing and environmental compliance issues. Even members of Congress have sought the Institute's assistance to review implementation of the Nation's fundamental environmental law, the National Environmental Policy Act, to assess how it can be improved using collaborative processes.

The Institute accomplishes its work by maintaining a national roster of 180 environmental mediators and facilitators located in 39 states. We believe that mediators should be involved in the geographic area of the dispute whenever possible and that system is working.

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

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

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

I hope that we can consider this legislation expeditiously to ensure continuing support for the valuable services of the U.S. Institute for Environmental Conflict Resolution to our Nation.

By Mr. McCAIN:

S. 164. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural resources.

Mr. McCAIN. Mr. President, I am reintroducing legislation today to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez. Chavez is one of the most revered public servants in our history for his leadership in helping organize migrant farm workers, and for providing inspiration to those most oppressed in our society. He is an exemplary American hero. It is important that we honor his struggle and do what we can to preserve certain sites located in Arizona, California and other States that are significant to his life.

Cesar Chavez, a fellow Arizonan born in Yuma, was the son of migrant farm workers. He no doubt loved qualities of life associated with his family's Hispanic heritage, but he will be remembered for the sincerity of his American patriotism. He fought to help Americans transcend distinctions of experience, and share equally in the rights and responsibilities of freedom. He made America a bigger and better nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a defender to worker's rights. He founded the National Farm Workers Association in 1962, which latter became the United Farm Workers of America. Essentially, he gave a voice to those that had no voice. In his words: ''We cannot seek achievement for ourselves and forget about progress and prosperity for our community. . .our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.''

I introduced this legislation last October and received an overwhelming positive response, not only from my constituents in Arizona, but from Americans all across the nation. Similar legislation was introduced by Congresswoman HILDA SOLIS, D–CA, in September 2001. The bill specifically authorizes the Secretary of the Interior to determine whether any of the sites meet the criteria for being listed on the National Register of Historic Landmarks. The study would be conducted within three years. The goal of this legislation is to establish a foundation for a future bill that will designate land for these sites to become historic landmarks.

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. He was a true American hero who

embodied the values of justice and freedom this nation holds dear. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.

I ask unanimous consent that the text of the bill and a letter of support from the Cesar E. Chavez Foundation be printed in the RECORD.

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

S. 164

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 ''César Estrada Chávez Study Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) on March 31, 1927, César Estrada Chávez was born on a small farm near Yuma, Arizona;

(2) at age 10, Chávez and his family became migrant farm workers after they lost their farm in the Great Depression;

(3) throughout his youth and into adulthood, Chávez migrated across the Southwest, laboring in fields and vineyards;

(4) during this period, Chávez was exposed to the hardships and injustices of farm worker life;

(5) in 1952, Chávez's life as an organizer and public servant began when he left the fields and joined the Community Service Organization, a community-based self-help organization;

(6) while with the Community Service Organization, Chávez conducted—

(A) voter registration drives; and

(B) campaigns against racial and economic discrimination;

(7) during the late 1950's and early 1960's, Chávez served as the national director of the Community Service Organization;

(8) in 1962, Chávez founded the National Farm Workers Association, an organization that—

(A) was the first successful farm workers union in the United States; and

(B) became known as the ''United Farm Workers of America'';

(9) from 1962 to 1993, as leader of United Farm Workers of America, Chávez achieved for tens of thousands of farm workers—

(A) dignity and respect;

(B) fair wages;

(C) medical coverage;

(D) pension benefits;

(E) humane living conditions; and

(F) other rights and protections;

(10) the leadership and humanitarianism of César Chávez continue to influence and inspire millions of citizens of the United States to seek social justice and civil rights for the poor and disenfranchised; and

(11) the life of César Chávez and his family provides an outstanding opportunity to illustrate and interpret the history of agricultural labor in the western United States.

SEC. 3. RESOURCE STUDY.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall complete a resource study of sites in the State of Arizona, the State of California, and other States that are significant to the life of César E. Chávez and the farm labor movement in the western United States to determine—

(1) appropriate methods for preserving and interpreting the sites; and

(2) whether any of the sites meets the criteria for listing on the National Register of Historic Places or designation as a national historic landmark under—

(A) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(B) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the criteria for the study of areas for potential inclusion in the National Park System under section 8(b)(2) of Public Law 91–383 (16 U.S.C. 1a–5(b)(2)); and

(2) consult with—

(A) the César E. Chávez Foundation;

(B) the United Farm Workers Union;

(C) State and local historical associations and societies; and

(D) the State Historic Preservation Officers of the State of Arizona, the State of California, and any other State in which a site described in subsection (a) is located.

(c) REPORT.—On completion of the study under subsection (a), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on—

(1) the findings of the study; and

(2) any recommendations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

CESAR E. CHAVEZ FOUNDATION,
Los Angeles, CA, January 13, 2003.

HON. JOHN MCCAIN,
U.S. Senate, 241 Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the Cesar E. Chavez Foundation and the Chavez family, thank you for interest in the life, work, and ideals of Cesar E. Chavez, a true American hero. Your efforts to further Cesar's legacy by reintroducing the bill for the study, documentation, and preservation of historically significant sites related to Cesar are to be applauded.

The Cesar E. Chavez Foundation understands the importance of such initiatives, which provide a powerful vehicle to educate and inspire Americans to carry on Cesar's values and his timeless vision for a better world. It is through initiatives such as yours, that current and future generations will continue to learn about Cesar and his vital contributions to our nation.

Your steadfast commitment to teaching our youth about Cesar's philosophies of nonviolent social change; his unconditional acceptance of all people; and his profound respect for life and the environment is an example of how Cesar's legacy continues today.

We look forward to continuing to work together with you on this very important matter.

Sincerely,

ANDRÉS F. IRLANDO,
Executive Director.

By Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN):

S. 165. A bill to improve air cargo security; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I rise today to introduce, along with my colleague Senator FEINSTEIN, the Air Cargo Security Act.

Since the 9/11 attacks, we in Congress, working with the Administration, the aviation industry, and the flying public have made tremendous progress in transportation security. Together we have created the new Department of Homeland Security, signifying the largest governmental reorganization in 50 years. We have created the Transportation Security Administration, TSA, and worked together with the Administration to hire and train over 40,000 new security employees. We have invested heavily in our personnel and equipment, and we have revamped screening procedures in virtually every aspect of passenger air travel.

Today, there is no doubt in my mind that the traveling public is considerably safer than we were on September 10, 2001. That is important to recognize. I think it is also important to note that our progress is due in large part to those Americans who continue to patiently cooperate with personnel during the security overhaul. The importance of their contributions and vigilance during this time cannot be overstated. With their cooperation, passengers today are screened more carefully. Bags are being checked more thoroughly, and we all are traveling under a more secure system.

While our efforts in the 107th Congress have dramatically improved our transportation security, we in the 108th must continue to strive for seamless security operations. This responsibility includes closing the cargo security loophole. It just does not make any sense to go to the trouble of inconveniencing airline passengers with security screening and baggage checking if we are then willing to leave the contents of the plane's belly unchecked. Currently, twenty-two percent of all air cargo in the U.S. is carried on passenger flights, only a tiny fraction of which is inspected. That is inexcusable.

The measures that I am introducing today, with my good friend from California, DIANNE FEINSTEIN, have already received the unanimous support of the full Senate, as well as the Commerce Committee last year. The purpose of the Air Cargo Security Act will be to strengthen air cargo security on all commercial flights. Specifically, this bill establishes a more reliable known shipper program by requiring random shipping facility inspections, creating an accessible shipper database, and providing for tamper-proof identification cards for airport personnel. It also gives the TSA the tools required to hold shippers accountable for the contents they ship by allowing the Administration to revoke the license of a shipper and freight forwarder engaged in unsound or illegal practices.

This legislation also requires the TSA to develop a comprehensive training program for cargo professionals as well as an approved cargo security plan. The rules and procedures that are strengthened in this bill were developed in consultation with the TSA, the airlines, and the cargo carriers to ensure that the requirements were aggressive. Working together has allowed us to remain sensitive to the airline industry that finds itself in dire financial straits.

What this vote boils down to is the simple question of, ''Are we going to

continue doing everything we can to ensure the safety of our passenger airplanes?'' By closing the cargo security loophole and passing the Air Cargo Security Act, we will demonstrate our commitment to finishing the job we started after 9/11/01.

To strengthen air cargo security and passenger safety, I urge my colleagues to support the Air Cargo Security Act of 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join Senator HUTCHISON in introducing the Air Cargo Security Act, a bill that passed the Senate by Unanimous Consent in the 107th Congress.

Today Senator HUTCHISON and I released a report from the General Accounting Office that demonstrates why the Congress and the Transportation Security Administration must, together, move quickly to shore up our vulnerabilities to protect against another terrorist attack.

I strongly believe that we must increase our defenses across the board to anticipate the next attack, not just correct the vulnerabilities that were already exploited by terrorists on September 11th.

After September 11th, Congress moved quickly to federalize the airport security screening workforce to prevent more hijackings, but we have not done enough to increase our air cargo security.

The General Accounting Office report shows that Congress must require the TSA to develop a strategic plan to screen and inspect air cargo to protect our Nation's air transportation system. According to this report, our air cargo system remains vulnerable to a terrorist attack because: first, there aren't enough safeguards in place to ensure that someone shipping air cargo under the ''known shipper'' program has taken the proper steps to protect against use by terrorists; second, cargo tampering is possible at various points where cargo transfers from company to company; third, air cargo handlers are not required to have criminal background checks, and they do not always have their identification verified; fourth and most importantly, most cargo shipped by air is never screened.

To address these problems, the GAO recommends that the Transportation Security Administration develop a comprehensive plan for improving air cargo security.

The legislation we are reintroducing today, directs the TSA to: 1. Develop a strategic plan to ensure the security of all air cargo; 2. Establish an industrywide pilot program database of known shippers; 3. set up a training program for handlers to learn how to safe-guard cargo from tampering; and 4. Inspect air cargo shipping facilities on a regular basis.

The Aviation Security Act Congress passed after September 11 required the Transportation Security Administration to screen and inspect air cargo ''as soon as practicable.'' This report shows we cannot wait any longer. The time is now for the Senate to again take up this legislation, again pass this legislation, and for the TSA to prevent terrorists from tampering with the cargo loaded into the underbelly of our airplanes.

The General Accounting Office recommends that the Under Secretary for Transportation develop a comprehensive plan for air cargo security that includes priority actions identified on the basis of risk, costs, deadlines for completing those actions, and performance targets.

The TSA has a great deal of options at its disposal. The TSA could: screen air cargo for explosives; secure cargo with high-tech seals; control access to holding areas containing cargo; use cargo tracking systems; install more cameras in cargo areas at airports; use blast resistant containers; have more bomb-sniffing dogs; put cargo in decompression chambers before loading it onto an aircraft; require the identity of people making air cargo deliveries to be checked; establish an industrywide computer profiling system; require criminal background checks for employees at freight forwarders and consolidators; and require third party inspections.

We do not expect the TSA to X-ray and scan all cargo for explosives because shippers and carriers would be able to process only 4 percent of cargo received daily, which would severely disrupt the air cargo industry. However, the Federal Government can deploy a combination of the techniques I have listed to implement a comprehensive security plan for air cargo.

Since one half of the hull of each passenger aircraft is typically filled with cargo and 22 percent of all cargo transported by plane is loaded on passenger flights, I believe air cargo security is just as important as passenger security. In fact, you cannot keep passengers safe without stronger air cargo security.

Each time there is a major jet crash or bombing, we reexamine our aviation security. I hope it will not take another accident or attack for us to finally pass this legislation into law.

I would like to thank Senator HUTCHISON for her leadership on the issue of transportation security and I urge my colleagues to support our legislation.

By Mrs. LINCOLN:

S. 166. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am pleased to introduce legislation that codifies the exclusion of irrevocable funeral trusts from Supplemental Security Income, SSI, resource calculations.

Irrevocable funeral trusts are funds set aside for funeral and burial expenses. These funds cannot be accessed until after the owner's death. Until recently, these trusts were not included in SSI resource calculations, but an administrative misinterpretation in 2001 dropped this important exclusion.

This misinterpretation has since been corrected, but it had serious repercussions for many senior citizens while it was in effect. When irrevocable funeral and burial trusts were included in SSI calculations, it penalized those SSI applicants who chose to save for their funeral by inflating their actual individual wealth, even though the trusts could not be accessed. The end result was that many senior citizens' SSI applications were rejected. Because the SSI definition of resources and exclusions is used for Medicaid eligibility determinations, the inclusion also affected Medicaid applicants.

I am introducing this bill to codify the exclusion to give senior citizens certainty that future administrations will not be able to misinterpret Congressional intent.

In the past, Congress has recognized the value of funeral planning as good social policy. We have encouraged consumers to engage in ''pre-need'' funeral planning in a number of ways.

This legislation will encourage people to engage in pre-need planning. It will codify the existing practice of excluding irrevocable funeral trusts from SSI calculations and ensure that future misinterpretations are avoided. We must ensure that people are not penalized for providing for their own funerals. I encourage my colleagues to give this legislation serious consideration.

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

S. 167. A bill to direct the Secretary of Energy to carry out a Next Generation Lighting Initiative; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today with my colleague, Senator DEWINE, to introduce legislation which will help maintain our leadership in a field Thomas Edison invented over 100 years ago, lighting.

The title of this bill is the Next Generation Lighting Initiative, or NGLI. The NGLI's purpose is to develop a partnership between our government, industry, and the research community, to enable the U.S. lighting to illuminate our surroundings using energy efficient semiconductors. This bill is structured along the lines of the well known government—industry semiconductor partnership called SEMATECH which the Congress authorized in the 1988 National Defense Authorization Act.

Lighting currently accounts for roughly 19 percent of the energy use in the United States. Lighting is a $40 billion dollar global industry. The United States occupies roughly one-third of that market. Today's lighting market primarily consists of two technologies. The first technology is incandescent

lighting, that's the one Thomas Edison invented over 100 years ago. Incandescent lighting relies on running a current through a wire to heat it up and illuminate your surroundings, but only 5 percent of the electricity in a conventional bulb is converted into visible light. The second type of lighting is fluorescent lights, which use a combination of chemical vapors, mainly mercury, to discharge light when current is passed through it. Fluorescent lights are six times more efficient than a light bulb.

In 1998, electricity from lighting cost about 47 billion dollars, which accounted for about 100 million tons of carbon equivalent from fossil energy plants.

Today, this paradign is changing, because some scientists recently made a leap ahead in lighting research. Technology leaps displace, very quickly, traditional markets. We know the stories all too well, the horse courier, the telegraph, the telephone and finally the Internet.

That's why we are proposing this legislation, because some advances have been made in the areas of solid state lighting that require a national investment that no one lighting industry can match. This emerging technology has the capability to disrupt our existing lighting markets. So quickly in fact, that other countries have formed consortia between their governments, industries, laboratories and universities. Solid state lighting is being taken very seriously around the world.

Let me describe solid state lighting. The best examples are red light emitting diodes, or ''LED's'', found in digital clocks. LED's produce only one color but they do not burn up a wire like a bulb and are seven times more efficient.

Until recently LED's were limited to yellow or red. That all changed in 1995. In 1995, some Japanese researchers developed a blue LED. Soon other bright colors started to emerge, such as green. That is when things started to change. Because, white light is a combination of red, blue, the recent Japanese breakthrough, and green or yellow. The recent Japanese breakthrough of that simple blue LED has now made it possible to produce white light from LED's ten times more efficient than a light bulb.

If it's successful, white light LED's will revolutionize lighting technology and will disrupt the existing industries. It's imperative that we move quickly on these advances. We need a consortia between our government, industry, research labs and academia to develop the necessary pre-competitive research to maintain our leadership role in this field.

I'd like to mention one other technology that will change lighting. That technology is found in your cell phone and on your computer screen. It's called conductive polymers. Three Nobel Prizes were just awarded for this technology. Conductive polymers offer the possibility of covering large surface areas and replacing fluorescent lamps. These materials will not only provide white light, but can display text or programmed color pictures. These technologies can be Internet controlled to adjust building lighting across the country.

Let me describe the Next Generation Lighting Initiative Act. If enacted, it will allow our country to capture these revolutionary mergers between lighting and information. It will supply the necessary pre-competitive R&D which no one industry alone can provide, and, which we as holders of the public trust of basic research owe a duty to further. It will keep the United States in a leadership role for commercial lighting and promote energy efficiency that is ten times that of incandescent lights and twice that of fluorescent lights. We need to enact this legislation now.

The Next Generation Lighting Initiative authorizes the Department of Energy to grant up to $460 million over ten years to a consortium of the United States lighting industry and research institutions. The goals of the Act are to have a 25 percent penetration of solid state lighting into the commercial markets by the 2013. The Next Generation's consortium will perform the basic and manufacturing research. The lighting industry will take this R&D and develop the necessary technologies to make it commercially viable.

This is precompetitive research. It is research that no one industry by itself can perform and which we have a duty to promote together with industry. It has implications for our country's energy policy far broader than economic competitiveness. The potential reduction in energy consumption makes it a national initiative. Once the pre-competitive research is transitioned to industry then it should be terminated, we think that will take about 10 years.

If this initiative is successful, then by 2025, it can reduce our energy consumption by roughly 17 billion watts of power or eliminate the need for 17 large electricity generating plants. That's as much as 17 million homes consume in a single day. That's more homes than in California, Oregon, and Washington combined.

Almost all of the language of this bill was worked out in detail with the House during the 107th Congress as part of the energy bill conference. We feel it is not only bipartisan but bicameral, and we hope that in this Congress it becomes law.

So let me conclude, by saying that the Next Generation Lighting Initiative will carry that U.S. lighting industry into the twenty-first century. It capitalizes on technologies that have the potential to displace our lighting industry. This Initiative will reduce our nation's energy consumption and greenhouse gas emissions. The research necessary to advance this technology requires a national investment that must be in partnership with industry.

I encourage my colleagues to review this bill, offer their comments, and join us in its support. 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. 167

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

SECTION 1. NEXT GENERATION LIGHTING INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) CONSORTIUM.—The term ''consortium'' means the consortium selected by the Secretary under subsection (d)(1).

(2) INITIATIVE.—The term ''Initiative'' means the Next Generation Lighting Initiative carried out under subsection (b).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) GENERAL AUTHORITY.—The Secretary shall carry out a program, to be known as the ''Next Generation Lighting Initiative'', to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) OBJECTIVES.—The objectives of the Initiative shall be—

(1) to develop, by 2012, advanced solid-state lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive;

(2) to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime; and

(3) to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible surfaces; and

(C) does not contain harmful pollutants (such as mercury) that are typical of fluorescent lamps.

(d) FUNDAMENTAL RESEARCH.—

(1) CONSORTIUM.—The Secretary shall carry out the fundamental research activities of the Initiative through a private consortium (which may include private firms, trade associations and institutions of higher education), which the Secretary shall select through a competitive process.

(2) SUBMISSION OF INFORMATION.—Each proposed consortium shall submit to the Secretary such information as the Secretary may require, including a program plan agreed to by all participants of the consortium.

(3) JOINT VENTURE.—The consortium shall be structured as a joint venture among the participants of the consortium.

(4) GOVERNING COUNCIL.—The Secretary shall serve on the governing council of the consortium.

(5) ELIGIBILITY.—To be eligible for a grant under paragraph (6), an applicant shall be broadly representative of United States solid-state lighting research, development, and manufacturing expertise.

(6) GRANTS.—

(A) IN GENERAL.—The Secretary shall award grants for fundamental research to the consortium, which the consortium may disburse to researchers, including researchers that are not participants in the consortium.

(B) SUBMISSION.—To receive a grant, the consortium shall submit to the Secretary a

description of the proposed research and a list of the persons that will receive funding.

(C) COST-SHARING.—Grants shall be matched by the consortium in accordance with subsection (h).

(7) NATIONAL LABORATORIES.—National Laboratories may participate in the research under this section and receive funds from the consortium.

(8) INTELLECTUAL PROPERTY.—Participants in the consortium and the Federal Government shall have royalty-free nonexclusive rights to use intellectual property derived from research funded under this subsection.

(e) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—The Secretary shall carry out the development, demonstration, and commercial application activities of the Initiative through awards to private firms, trade associations, and institutions of higher education.

(2) PREFERENCE.—In selecting awardees, the Secretary shall give preference to members of the consortium.

(f) PLANS AND ASSESSMENTS.—

(1) IN GENERAL.—The consortium shall formulate an annual operating plan which shall include research priorities, technical milestones, and plans for technology transfer, and which shall be subject to approval by the Secretary.

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

(B) DUTIES.—The Academy shall review the research priorities, technical milestones, and plans for technology transfer established under paragraph (1) and evaluate the progress toward achieving them.

(C) CONSIDERATION OF RESULTS.—The Secretary shall consider the results of the reviews in evaluating the plans submitted under paragraph (1).

(g) AUDIT.—

(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to perform an audit of the consortium to determine the extent to which the funds authorized by this section have been expended in a manner consistent with this section.

(2) REPORT.—

(A) TO THE SECRETARY.—The auditor shall annually submit to the Secretary a report describing the results of the audit under paragraph (1).

(B) TO CONGRESS.—The Secretary shall transmit to Congress a copy of each report submitted under subparagraph (A), including a plan to remedy any deficiencies noted in the report.

(h) COST SHARING.—

(1) RESEARCH AND DEVELOPMENT.—

(A) IN GENERAL.—For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(B) REDUCTION OR WAIVER.—The Secretary may reduce or waive the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(2) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(A) IN GENERAL.—The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources.

(B) REDUCTION.—The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(3) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary may include personnel, services, equipment, and other resources.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2004; and

(2) $50,000,000 for each of fiscal years 2005 through 2013.

(j) TERMINATION OF INITIATIVE.—The Secretary shall terminate the Initiative not later than September 30, 2013.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 168. A bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague Senator BOXER, to introduce the ''San Francisco Old Mint Commemorative Coin Act'' to authorize the United States Mint to issue a commemorative coin that will honor the San Francisco Old Mint and help restore this historic building in downtown San Francisco.

The San Francisco Old Mint Building is an important historical landmark for San Francisco, the State of California, and the United States. Beginning its operations in 1854, the San Francisco Mint was established to take advantage of the plentiful gold and silver mined in the West during the California Gold Rush. At one point, more than half of the money minted in the United States came from the San Francisco Mint, and it once held a third of the Nation's gold supply. Today the ''S'' Mint Mark is found on many rare coins as well as on many new proof coin sets.

The Old Mint Building, located in the heart of the city, has been standing for more than 125 years as the oldest stone building in San Francisco. It is the Old Mint opened in 1874, it was the largest Federal building in the West. Architect Alfred B. Mullet designed this building which is listed on the National Register of Historic Places. A.B. Mullet is the same architect who designed both the U.S. Treasury building and the Old Executive Office Building here in Washington D.C.

A product of America's ''Gilded Age,'' the Old Mint is architecturally reflective of a distinguished line of Greek revival-style buildings that were soon to be eclipsed by other designs at the turn of the century.

Aided by its magnificent stone structure, the Old Mint Building was able to survive the San Francisco earthquake and fire of 1906. In fact, the Mint was the only financial instruction that remained operable after the earthquake and the building was used as the treasury for the city's disaster relief funds.

The San Francisco Old Mint Building minted coins until 1937 when the building became too small and its operations moved to a larger space elsewhere in San Francisco. In the years since then, the building has deteriorated. In 1994, the Bureau of the Mint closed the Old Mint because it could not afford the then-estimated $20 million seismic retrofit to bring the building up to code. Since then the building, transferred to the General Services Administration, has remained closed.

Now, the San Francisco Museum and Historical Society has proposed an exciting project to restore and rejuvenate the Old Mint Building in downtown San Francisco. A fine history museum supported by shops, restaurants, community office space, a coin shop, and a visitors center will combine to make the building a striking and viable destination.

I am introducing this legislation to honor the history of the San Francisco Old Mint and the role it played in rebuilding the great ''City by the Bay'' after the 1906 Earthquake and Fire. This legislation will authorize the Secretary of the Treasury to mint and issue 100,000 $5 gold coins and 500,000 $1 silver coins, which will be emblematic of the San Francisco Old Mint Building and its importance to California and the United States.

The commemorative coin will also help provide funds for the building's restoration. The proceeds generated from the sale of these commemorative coins will be paid to the San Francisco Museum and Historical Society for the building's rehabilitation.

The San Francisco Old Mint is venerated by coin collectors as the ''Granite Lady'' and I believe it is worthy of a commemorative coin. I am very pleased to note that the Citizens Commemorative Coin Advisory Committee, CCCAC, has agreed and that its members have unanimously endorsed this legislation for a 2006 coin, a year that will mark the 100-year anniversary of the building's survival of the 1906 earthquake and fire.

2006 is also the year the U.S. Mint will issue the California quarter and I expect both coins will be attractive to coin collectors. The CCCAC's recommendation will be included in its 2002 annual report that will be delivered to Congress before the end of this month.

Collectors, Californians, and millions of Americans hold the San Francisco Old Mint in the highest regard as a national treasure. Because no other such icon of the numismatic community has been honored by the issuance of a commemorative coin, I believe the San Francisco Old Mint merits commemoration at this time.

I believe honoring and restoring the San Francisco Old Mint Building is an important historic preservation project. I hope my colleagues will join me to support the San Francisco Old Mint Commemorative Coin Act to honor the unique and proud history of the ''Granite Lady.''

By Mr. KYL:

S. 169. A bill to permanently repeal the estate and generation-skipping transfer taxes; to the Committee on Finance.

Mr. KYL. Mr. President, today I am introducing legislation to repeal the death tax permanently, effective January 1, 2005. While I strongly believe that Congress must make all of the tax cuts enacted in 2001 permanent, and I have introduced S. 96, the ''Contract with Investors,'' that would make this and other important tax law changes, I want to make a separate and special case for repealing the death tax forever.

It is an unfair, inefficient, economically unsound and, frankly, immoral tax that should not come back. In 2001, President Bush and Congress agreed to repeal the death tax. Repeal was tremendously popular. Even though most Americans may never be subject to the death tax, the vast majority know it is terribly unfair to allow Washington to seize more than half of a person's assets when he or she dies. According to a 2001 McLaughlin and Associates poll, 79 percent of respondents approve of the idea of abolishing the death tax.

It is unfair, first of all, to the decedent and to his or her heirs. A person who works hard throughout his or her life, perhaps starts a business, and buys a home in a fast-growing metropolitan area where real estate values are skyrocketing. Or perhaps the person owns a farm or just works hard in a company owned by others, but that person saves and invests and eventually accumulates a small but respectable nest egg. The American dream is to be able to leave these assets to one's children so that they might enjoy a slightly better life than their parents. It is simply unfair and immoral for the government to take more than half of these assets at death.

The impact of the death tax on small, family-owned businesses highlights another inequity, that small businesses often pay taxes at the highest individual rate, currently set at 38.6 percent, while the highest corporate tax rate is 35 percent. When the owner of a small business dies, the heirs may be forced to sell off the business to pay the applicable death tax. When the head of a C corporation dies, his or her heirs may have to sell some assets to pay the death taxes, but generally there is no need for the business to be sold. While Congress has tried to make provisions to ease the impact of the death tax on family businesses, the rules are so restrictive that a business owner can never be sure if he or she qualifies. Furthermore, the family business provisions restrict the size to which the business can grow and still quality for special treatment, creating a disincentive for businesses to expand and create new jobs. A far better solution is to repeal the death tax entirely and permanently.

The death tax also causes collateral damage. Take our small entrepreneur described above. Suppose the business employs 25, maybe 30 people, all of whom rely on the business for their livelihood, health insurance, and retirement savings. The entrepreneur's heirs may not have enough cash to pay the applicable death tax and, therefore, may be forced to liquidate the business. All its employees must now find other jobs. Or suppose the heirs cannot find a ready purchaser for the business and must sell it off in pieces. All of the companies that sold items to or bought items from this business must find other suppliers or customers, leaving a hole in the economy. Although the death tax brings in only about one-and-a-half percent of the Federal Government's annual revenue, it inflicts a disproportionately large and negative impact on the economy.

Not only does the death tax cost jobs directly when heirs are forced to liquidate businesses, it actually reduces Federal revenues by weakening the incentive to save and invest. One of the biggest problems our economy is facing now is that individuals are unwilling to invest at sufficient levels, leading to lower profits, interest, dividends and capital gains, not to mention reduced productivity and lower taxable wages. Economists Gary and Aldona Robbins estimate that repeal of the death tax would increase gross domestic product to such an extent that in 10 years' time, Federal tax revenue would be higher than it would be if the tax were retained. Of course, if the tax comes back after only one year of repeal, this growth will go unrealized.

Beyond lost jobs, liquidated businesses, and confiscatory tax rates, the death tax is inefficient because people pay tremendous sums to tax-planners in hopes of avoiding as much of the tax as possible. Alicia Munnell, a former member of President Clinton's Council of Economic Advisors, estimates that the costs of complying with death tax laws are roughly equal to the revenue raised, or about $23 billion in 1998.

In addition to being unfair and a drag on the economy, the current plan for repealing the death tax and then reinstating it the next year is incomprehensible to most Americans. Under current law, the exemption is $1 million in 2003, gradually raising to $3.5 million in 2009. At the same time, the tax rate drops from its original high of 55 percent down to 45 percent by 2007 and stays there until the death tax is repealed in 2010. In that year, heirs will only be taxed on any inherited property when they sell or otherwise dispose of the property, applying carryover basis, and then at capital gains rates and with an exemption of $1.3 million, and an additional $3 million for a surviving spouse. But, the entire death tax returns the following year at the 2001 rate of 55 percent, with the 2001 exemption of $675,000. The American people know that this makes absolutely no sense. We must fix this problem now and fix it permanently.

My legislation, the Permanent Death Tax Repeal Act of 2003, abolishes the death tax permanently, effective January 1, 2005. I suggest 2005 to give people time to plan for the altered date of repeal. I believe that fairness and sound economic policy require that we enact my legislation as soon as possible, so that people will know that when the death tax disappears, it will disappear for good. As Edward J. McCaffrey, a law professor from the University of Southern California and self-described liberal, said in testimony before the Senate Finance Committee a few years back: ''Polls and practices show that we like sin taxes, such as on alcohol and cigarettes. . . . The estate tax is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long term savings.'' We must end this tax on virtue, work, savings, job creation and the American dream, and we must end it permanently.

By Mr. VOINOVICH:

S. 170. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and further purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 2003, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund, SRF, Program administered by the U.S. Environmental Protection Agency, EPA. As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the SRF in 1987 to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or, as it is also known, the Clean Water Act. State and local governments have used the Federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each State determines which projects are built.

The performance of the Clean Water SRF Program has been spectacular. Total Federal capitalization grants have been nearly doubled by non-Federal funding sources, including State contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 11,000 low-interest loans totaling more than $34.3 billion have been approved to date. As in many States, Ohio has needs for public wastewater system improvements which greatly exceed typical Clean Water SRF funding levels. For instance, in fiscal year 2002, a level of $1.35 billion was appropriated for the Clean Water [SRF program nationwide. However, according to the EPA's 1996 Clean Water] Needs Survey, Ohio's 20-year capital investment needs for publicly owned wastewater treatment facilities are $7.4 billion. Of that amount,

over $4 billion of improvements have been identified as necessary to address combined serve overflow, CSO, problems in over 100 communities in Ohio. The city of Akron, for example, has proposed to spend $377 million over 30 years to fix the city's CSO problems.

Due to the CSO problem, many Ohio communities face millions of dollars worth of wastewater infrastructure improvements and the likelihood of increased sewer rates without receiving outside funding. In recent years, Ohio cities and villages also have been spending more on maintaining and operating their systems in order to postpone the inevitable upgrades. Nevertheless, their systems are aging and will soon need to be replaced.

While the Clean Water SRF Program's track record is excellent, the condition of our Nation's overall environmental infrastructure remains alarming. A 20-year needs survey conducted by the EPA in 1996 documented $139 billion worth of wastewater capital needs nationwide. In 1999, the national assessment was revised upward to nearly $200 billion, in order to more accurately account for expected sanitary sewer needs. Private studies demonstrate that total needs exceed $300 billion, when anticipated replacement costs are considered. EPA's most recent Clean Water Gap Analysis projected a $6 billion per year capital payments gap for clean water over the next two decades.

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

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

The health and well-being of the American public depends on the condition of our nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted absent a crisis. Let me emphasize to my colleagues that the costs of poor environmental infrastructure cannot be ignored. Last year marked the 30th Anniversary of the Clean Water Act. We have come a long way since the Clean Water Act's implementation in 1972. Yet, we still have a long way to go. After 30 years since the passage of the Clean Water Act approximately 45 percent of U.S. waters are still not clean enough for fishing or swimming. The 30th Anniversary of the Clean Water Act is cause for celebration of our accomplishments. It is also an opportunity to recommit ourselves to achieving the goals of the Clean Water Act. The Federal Government must maintain a strong partnership with States and local communities and share in the financial burden of sustaining hard-won water quality gains and making additional improvements to the quality of the Nation's waters.

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

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. 170

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 ''Clean Water Infrastructure Financing Act of 2003''.

SEC. 2. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking ''(1) for construction'' and all that follows through the period at the end and inserting ''to accomplish the purposes of this Act.''.

SEC. 3. CAPITALIZATION GRANTS AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking ''before fiscal year 1995''; and

(2) by striking ''201(b)'' and all that follows through ''218,'' and inserting ''211,''.

(b) GUIDANCE FOR SMALL SYSTEMS.—Section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) is amended by adding at the end the following:

''(c) GUIDANCE FOR SMALL SYSTEMS.—

''(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

''(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of enactment of this subsection, after providing notice and opportunity for public comment, the Administrator shall publish—

''(A) a manual to assist small systems in obtaining assistance under this title; and

''(B) in the Federal Register, notice of the availability of the manual.

''(3) DEFINITION OF SMALL SYSTEM.—In this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and that serves a population of 20,000 or fewer inhabitants.''.

SEC. 4. WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

''(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The water pollution control revolving fund of a State shall be used only for providing financial assistance for activities that have, as a principal benefit, the improvement or protection of the water quality of navigable waters to a municipality, intermunicipal, interstate, or State agency, or other person, including activities such as—

''(A) construction of a publicly owned treatment works;

''(B) implementation of lake protection programs and projects under section 314;

''(C) implementation of a nonpoint source management program under section 319;

''(D) implementation of an estuary conservation and management plan under section 320;

''(E) restoration or protection of publicly or privately owned riparian areas, including acquisition of property rights;

''(F) implementation of measures to improve the efficiency of public water use;

''(G) development and implementation of plans by a public recipient to prevent water pollution; and

''(H) acquisition of land necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

''(2) FUND AMOUNTS.—

''(A) REPAYMENTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments.

''(B) AVAILABILITY.—The balance in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

''(C) FEES.—Fees charged by a State to recipients of the assistance may be deposited in the fund and may be used only to pay the cost of administering this title.''.

(b) EXTENDED REPAYMENT PERIOD FOR FINANCIALLY DISTRESSED COMMUNITIES.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A), by inserting after ''20 years'' the following: ''or, in the case of a financially distressed community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan''; and

(2) in subparagraph (B), by striking ''not later than 20 years after project completion'' and inserting ''on the expiration of the term of the loan''.

(c) LOAN GUARANTEES.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended by striking paragraph (5) and inserting the following:

''(5) to provide loan guarantees for—

''(A) similar revolving funds established by municipalities or intermunicipal agencies; and

''(B) developing and implementing innovative technologies;''.

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ''or the greater of $400,000 per year or an amount equal to ½ percent per year of the current valuation of the fund, plus the amount of any fees collected by the State under subsection (c)(2)(C)''.

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations, except that the amounts used under this paragraph for a fiscal year shall not exceed 2 percent of all grants provided to the fund for the fiscal year under this title.''.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended by striking ''is consistent'' and inserting ''is not inconsistent''.

(g) CONSTRUCTION ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

''(g) CONSTRUCTION ASSISTANCE.—

''(1) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from the water pollution control revolving fund of the State for a project for construction of a publicly owned treatment works only if the project is on the priority list of the State under section 216, without regard to the rank of the project on the list.

''(2) ELIGIBILITY OF CERTAIN TREATMENT WORKS.—A treatment works shall be treated as a publicly owned treatment works for purposes of subsection (c) if the treatment works, without regard to ownership, would be considered a publicly owned treatment works and is principally treating municipal waste water or domestic sewage.''.

(h) PRINCIPAL SUBSIDIZATION.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) PRINCIPAL SUBSIDIZATION.—

''(1) IN GENERAL.—Subject to paragraph (2), in a case in which a State makes a loan under subsection (d)(1) to a financially distressed community, the State may provide additional subsidization to the loan recipient (including forgiveness of principal).

''(2) LIMITATION.—For each fiscal year, the total amount of loan subsidies made by a State under this subsection shall not exceed 30 percent of the amount of the capitalization grant received by the State for that fiscal year.

''(j) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing the affordability criteria referred to in subsection (l).

''(k) PRIORITY.—In making a loan under this section, a State may give priority to a financially distressed community.

''(l) DEFINITION OF FINANCIALLY DISTRESSED COMMUNITY.—In this section, the term 'financially distressed community' means any community that meets affordability criteria that are—

''(1) established by the State in which the community is located; and

''(2) developed after public review and comment.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387) is amended by striking ''the following sums:'' and all that follows through the period at the end of paragraph (5) and inserting ''$3,000,000,000 for each of fiscal years 2003 through 2007.''.

By Mr. DAYTON:

S. 171. A bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes; to the Committee on Finance.

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

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

S. 171

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 ''Medicare Ambulance Payment Reform Act of 2003''.

SEC. 2. AMBULANCE PAYMENT RATES.

(a) PAYMENT RATES.—

(1) IN GENERAL.—Section 1834(l)(3) of the Social Security Act (42 U.S.C. 1395m(l)(3)) is amended to read as follows:

''(3) PAYMENT RATES.—

''(A) IN GENERAL.—Subject to any adjustment under subparagraph (B) and paragraph (9) and the full payment of a national mileage rate pursuant to paragraph (2)(E), in establishing such fee schedule, the following rules shall apply:

''(i) PAYMENT RATES IN 2003.—

''(I) GROUND AMBULANCE SERVICES.—In the case of ground ambulance services furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services at a rate based on the average costs (as determined by the Secretary on the basis of the most recent and reliable information available) incurred by full cost ambulance suppliers in providing nonemergency basic life support ambulance services covered under this title, with adjustments to the rates for other ground ambulance service levels to be determined based on the rule established under paragraph (1). For the purposes of the preceding sentence, the term 'full cost ambulance supplier' means a supplier for which volunteers or other unpaid staff comprise less than 20 percent of the supplier's total staff and which receives less than 20 percent of space and other capital assets free of charge.

''(II) OTHER AMBULANCE SERVICES.—In the case of ambulance services not described in subclause (I) that are furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services based on the rule established under paragraph (1).

''(ii) PAYMENT RATES IN SUBSEQUENT YEARS FOR ALL AMBULANCE SERVICES.—In the case of any ambulance service furnished under this part in 2004 or any subsequent year, the Secretary shall set the payment rates under the fee schedule for such service at amounts equal to the payment rate under the fee schedule for that service furnished during the previous year, increased by the percentage increase in the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.

''(B) ADJUSTMENT IN RURAL RATES.—For years beginning with 2004, the Secretary, after taking into consideration the recommendations contained in the report submitted under section 221(b)(3) the Medicare, Medicaid, and SCHIP Benefits Improvements and Protection Act of 2000, shall adjust the fee schedule payment rates that would otherwise apply under this subsection for ambulance services provided in low density rural areas based on the increased cost (if any) of providing such services in such areas.''.

(2) CONFORMING AMENDMENT.—Section 221(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–487), as enacted into law by section 1(a)(6) of Public Law 106–554, is repealed.

(b) USE OF MEDICAL CONDITIONS FOR CODING AMBULANCE SERVICES.—Section 1834(l)(7) of the Social Security Act (42 U.S.C. 1395m(l)(7)) is amended to read as follows:

''(7) CODING SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, in accordance with section 1173(c)(1)(B), establish a system or systems for the coding of claims for ambulance services for which payment is made under this subsection, including a code set specifying the medical condition of the individual who is transported and the level of service that is appropriate for the transportation of an individual with that medical condition.

''(B) MEDICAL CONDITIONS.—The code set established under subparagraph (A) shall—

''(i) take into account the list of medical conditions developed in the course of the negotiated rulemaking process conducted under paragraph (1); and

''(ii) notwithstanding any other provision of law, be adopted as a standard code set under section 1173(c).''.

By Mr. DAYTON:

S. 172. A bill to amend title XVIII of the Social Security Act to improve the access of medicare beneficiaries to services in rural hospitals and critical access hospitals, and for other purposes; to the Committee on Finance.

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

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

S. 172

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; AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the ''Rural Health Care Equity Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Permitting hospitals to allocate swing beds and acute care inpatient beds subject to a total limit of 25 beds.
Sec. 3. Elimination of isolation test for cost-based CAH ambulance services.
Sec. 4. Adjustment to wage index.
Sec. 5. Establishing a single standardized amount under medicare inpatient hospital PPS.
Sec. 6. Restoring full market basket update for inpatient PPS hospitals.
Sec. 7. Freezing indirect medical education (IME) adjustment percentage at 6.5 percent.
Sec. 8. Establishment of rural community hospital (RCH) program.
Sec. 9. Removing barriers to establishment of distinct part units by RCH and CAH facilities.

Sec. 10. Improvements to medicare critical access hospital (CAH) program.
Sec. 11. 5-year extension of the authorization for appropriations grant program.
Sec. 12. GAO study on wage indexing and placement of hospitals in MSAs.

(c) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to that section or other provision of the Social Security Act.

SEC. 2. PERMITTING HOSPITALS TO ALLOCATE SWING BEDS AND ACUTE CARE INPATIENT BEDS SUBJECT TO A TOTAL LIMIT OF 25 BEDS.

(a) IN GENERAL.—Section 1820(c)(2)(B)(iii) (42 U.S.C. 1395i–4(c)(2)(B)(iii)) is amended to read as follows:

''(iii) provides not more than a total of 25 extended care service beds (pursuant to an agreement under subsection (f)) or acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;''.

(b) CONFORMING AMENDMENT.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is amended by striking ''and the number of beds used at any time for acute care inpatient services does not exceed 15 beds''.

SEC. 3. ELIMINATION OF ISOLATION TEST FOR COST-BASED CAH AMBULANCE SERVICES.

Section 1834(l)(8) (42 U.S.C. 1395m(l)), as added by section 205(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

SEC. 4. ADJUSTMENT TO WAGE INDEX.

(a) IN GENERAL.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) by striking ''WAGE LEVELS.—The Secretary'' and inserting ''WAGE LEVELS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary''; and

(2) by adding at the end the following new clause:

''(ii) ALTERNATIVE PROPORTION TO BE ADJUSTED IN FISCAL YEARS 2003, 2004, AND 2005.—

''(I) IN GENERAL.—Except as provided in subclause (II), for discharges occurring on or after October 1, 2002, and before October 1, 2005, the Secretary shall substitute '63 percent' for the proportion described in the first sentence of clause (i).

''(II) HOLD HARMLESS FOR CERTAIN HOSPITALS.—For discharges occurring on or after October 1, 2002, and before October 1, 2005, if the application of subclause (I) would result in lower payments to a hospital than would otherwise be made, then this subparagraph shall be applied as if this clause had not been enacted.

(b) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: ''The Secretary shall apply the previous sentence for any period as if clause (ii) had not been enacted.''.

SEC. 5. ESTABLISHING A SINGLE STANDARDIZED AMOUNT UNDER MEDICARE INPATIENT HOSPITAL PPS.

(a) IN GENERAL.—Section 1886(d)(3)(A) (42 U.S.C. 1395ww(d)(3)(A)) is amended—

(1) in clause (iv), by inserting ''and ending on or before September 30, 2002,'' after ''October 1, 1995,''; and

(2) by redesignating clauses (v) and (vi) as clauses (vii) and (viii), respectively, and inserting after clause (iv) the following new clauses:

''(v) For discharges occurring in the fiscal year beginning on October 1, 2002, the average standardized amount for hospitals located in areas other than a large urban area shall be equal to the average standardized amount for hospitals located in a large urban area.

''(vi) For discharges occurring in a fiscal year beginning on or after October 1, 2003, the Secretary shall compute an average standardized amount for hospitals located in all areas within the United States equal to the average standardized amount computed under clause (v) or this clause for the previous fiscal year increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) UPDATE FACTOR.—Section 1886(b)(3)(B)(i)(XVII) (42 U.S.C. 1395ww(b)(3)(B)(i)(XVII)) is amended by striking ''for hospitals in all areas,'' and inserting ''for hospitals located in a large urban area,''.

(2) COMPUTING DRG-SPECIFIC RATES.—

(A) IN GENERAL.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(i) in the heading by striking ''IN DIFFERENT AREAS'';

(ii) in the matter preceding clause (i)—

(I) by inserting ''for fiscal years before fiscal year 1997'' before ''a regional DRG prospective payment rate for each region,''; and

(II) by striking ''each of which is'';

(iii) in clause (i)—

(I) by inserting ''for fiscal years before fiscal year 2003,'' after ''(i)''; and

(II) in subclause (II), by striking ''and'' after the semicolon at the end;

(iv) in clause (ii)—

(I) by inserting ''for fiscal years before fiscal year 2003,'' after ''(ii)''; and

(II) in subclause (II), by striking the period at the end and inserting ''; and''; and

(v) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2002, for hospitals located in all areas, to the product of—

''(I) the applicable average standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(B) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended in the matter preceding subparagraph (A) by inserting ''for fiscal years before fiscal year 1997'' before ''a regional DRG prospective payment rate''.

SEC. 6. RESTORING FULL MARKET BASKET UPDATE FOR INPATIENT PPS HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XV), by adding ''and'' at the end;

(2) in subclause (XVI)—

(A) by inserting ''and each subsequent fiscal year'' after ''for fiscal year 2001''; and

(B) by striking the comma at the end and inserting a period; and

(3) by striking subclauses (XVII), (XVIII), and (XIX).

SEC. 7. FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V), by adding ''and'' at the end; and

(2) by striking subclauses (VI) and (VII) and inserting the following:

''(VI) on or after October 1, 2001, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section 7 of the Rural Health Care Equity Act of 2003'' after ''2000''.

SEC. 8. ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL (RCH) PROGRAM.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end of the following new subsection:

''Rural Community Hospital; Rural Community Hospital Services

''(ww)(1) The term 'rural community hospital' means a hospital (as defined in subsection (e)) that—

''(A) is located in a rural area (as defined in section 1886(d)(2)(D)) or treated as being so located pursuant to section 1886(d)(8)(E);

''(B) subject to subparagraph (B), has less than 51 acute care inpatient beds, as reported in its most recent cost report;

''(C) makes available 24-hour emergency care services;

''(D) subject to subparagraph (C), has a provider agreement in effect with the Secretary and is open to the public as of January 1, 2002; and

''(E) applies to the Secretary for such designation.

''(2) For purposes of paragraph (1)(B), beds in a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital shall not be counted.

''(3) Subparagraph (1)(C) shall not be construed to prohibit any of the following from qualifying as a rural community hospital:

''(A) A replacement facility (as defined by the Secretary in regulations in effect on January 1, 2002) with the same service area (as defined by the Secretary in regulations in effect on such date).

''(B) A facility obtaining a new provider number pursuant to a change of ownership.

''(C) A facility which has a binding written agreement with an outside, unrelated party for the construction, reconstruction, lease, rental, or financing of a building as of January 1, 2002.

''(4) Nothing in this subsection shall be construed as prohibiting a critical access hospital from qualifying as a rural community hospital if the critical access hospital meets the conditions otherwise applicable to hospitals under subsection (e) and section 1866.''.

(b) PAYMENT.—

(1) INPATIENT SERVICES.—Section 1814 (42 U.S.C. 1395f) is amended by adding at the end the following new subsection:

''Payment for Inpatient Services Furnished in Rural Community Hospitals

''(m) The amount of payment under this part for inpatient hospital services furnished in a rural community hospital, other than such services furnished in a psychiatric or rehabilitation unit of the hospital which is a distinct part, is, at the election of the hospital in the application referred to in section 1861(ww)(1)(D)—

''(1) the reasonable costs of providing such services, without regard to the amount of the customary or other charge, or

''(2) the amount of payment provided for under the prospective payment system for inpatient hospital services under section 1886(d).''.

(2) OUTPATIENT SERVICES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(n) PAYMENT FOR OUTPATIENT SERVICES FURNISHED IN RURAL COMMUNITY HOSPITALS.—

''(1) IN GENERAL.—The amount of payment under this part for outpatient services furnished in a rural community hospital is, at the election of the hospital in the application referred to in section 1861(ww)(1)(D)—

''(A) the reasonable costs of providing such services, without regard to the amount of the customary or other charge and any limitation under section 1861(v)(1)(U), or

''(B) the amount of payment provided for under the prospective payment system for covered OPD services under section 1833(t).

''(2) BENEFICIARY COST SHARING FOR OUTPATIENT SERVICES FURNISHED IN A RURAL COMMUNITY HOSPITAL.—The amounts of beneficiary cost sharing for outpatient services furnished in a rural community hospital under this part shall be as follows:

''(A) For items and services that would have been paid under section 1833(t) if provided by a hospital, the amount of cost sharing determined under paragraph (8) of such section.

''(B) For items and services that would have been paid under section 1833(h) if furnished by a provider or supplier, no cost sharing shall apply.

''(C) For all other items and services, the amount of cost sharing that would apply to the item or service under the methodology that would be used to determine payment for such item or service if provided by a physician, provider, or supplier, as the case may be.''.

(3) HOME HEALTH SERVICES.—

(A) EXCLUSION FROM HOME HEALTH PPS.—

(i) IN GENERAL.—Section 1895 (42 U.S.C. 1395fff) is amended by adding at the end the following:

''(f) EXCLUSION.—

''(1) IN GENERAL.—In determining payments under this title for home health services furnished on or after October 1, 2002, by a qualified RCH-based home health agency (as defined in paragraph (2))—

''(A) the agency may make a one-time election to waive application of the prospective payment system established under this section to such services furnished by the agency shall not apply; and

''(B) in the case of such an election, payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under paragraph (1)(L) of such section.

''(2) QUALIFIED RCH-BASED HOME HEALTH AGENCY DEFINED.—For purposes of paragraph (1), a 'qualified RCH-based home health agency' is a home health agency that is a provider-based entity (as defined in section 404 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106–554; Appendix F, 114 Stat. 2763A–506) of a rural community hospital that is located—

''(A) in a county in which no main or branch office of another home health agency is located; or

''(B) at least 35 miles from any main or branch office of another home health agency.''.

(ii) CONFORMING CHANGES.—

(I) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''or with respect to services to which section 1895(f) applies'' after ''equipment'' in the matter preceding paragraph (1).

(II) PAYMENTS UNDER PART B.—Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) is amended by striking ''the prospective payment system under''.

(III) PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended by inserting ''(other than by a qualified RCH-based home health agency (as defined in section 1895(f)(2))'' after ''with respect to services furnished by home health agencies''.

(iii) CONSOLIDATED BILLING.—

(I) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(F) (42 U.S.C. 1395u(b)(6)(F)) is amended by inserting ''and excluding home health services to which section 1895(f) applies'' after ''provided for in such section''.

(II) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by inserting before the period at the end of the second sentence the following: ''and paragraph (21) shall not apply to home health services to which section 1895(f) applies''.

(4) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)) is amended—

(A) by inserting ''(i)'' after ''(P)''; and

(B) by adding at the end the following:

''(ii)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(g)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a rural community hospital on or after October 1, 2002, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i).

''(II) The services described in this subparagraph are inpatient hospital services, outpatient hospital services, home health services furnished by a qualified RCH-based home health agency (as defined in section 1895(f)(2)), and ambulance services.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(5) EXEMPTION FROM 30 PERCENT REDUCTION IN REIMBURSEMENT FOR BAD DEBT.—Section 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended by inserting ''(other than a rural community hospital)'' after ''In determining such reasonable costs for hospitals''.

(c) CONFORMING AMENDMENTS.—

(1) PART A PAYMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''other than a rural community hospital furnishing inpatient hospital services,'' after ''critical access hospital services,'' in the matter preceding paragraph (1).

(2) PART B PAYMENT.—

(A) IN GENERAL.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter preceding subparagraph (A), by striking ''and (I)'' and inserting ''(I), and (K)'';

(ii) in paragraph (8), by striking ''and'' after the semicolon at the end;

(iii) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new paragraph:

''(10) in the case of outpatient services furnished by a rural community hospital, the amounts described in section 1834(n).''.

(B) AMBULANCE SERVICES.—Section 1834(l)(8) (42 U.S.C. 1395m(l)(8)), as added by section 205(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(i) in the heading, by striking ''CRITICAL ACCESS HOSPITALS'' and inserting ''CERTAIN FACILITIES'';

(ii) by striking ''or'' at the end of subparagraph (A);

(iii) by redesignating subparagraph (B) as subparagraph (C);

(iv) by inserting after subparagraph (A) the following new subparagraph:

''(B) by a rural community hospital (as defined in section 1861(ww)(1)), or''; and

(v) in subparagraph (C), as so redesignated, by inserting ''or a rural community hospital'' after ''critical access hospital''.

(3) TECHNICAL AMENDMENTS.—

(A) CONSULTATION WITH STATE AGENCIES.—Section 1863 (42 U.S.C. 1395z) is amended by striking ''and (dd)(2)'' and inserting ''(dd)(2), (mm)(1), and (ww)(1)''.

(B) PROVIDER AGREEMENTS.—The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting ''section 1834(n)(2),'' after ''section 1833(b),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2002.

SEC. 9. REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY RCH AND CAH FACILITIES.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by striking ''a distinct part of the hospital (as defined by the Secretary)'' and inserting ''a distinct part (as defined by the Secretary) of the hospital, critical access hospital, or rural community hospital'' in the matter following clause (v)(III).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations with respect to distinct part unit status that are made on or after October 1, 2002.

SEC. 10. IMPROVEMENTS TO MEDICARE CRITICAL ACCESS HOSPITAL (CAH) PROGRAM.

(a) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i–4(c)(2)) is amended by adding at the end the following new subparagraph:

''(E) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—In determining the number of beds of a facility for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed of a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of section 1886(d)(1)(B)) of the facility, except that the total number of beds that are not taken into account pursuant to this subparagraph with respect to a facility shall not exceed 10.''.

(b) PAYMENTS TO HOME HEALTH AGENCIES OWNED AND OPERATED BY A CAH.—Section 1895(f)(1) (42 U.S.C. 1395fff(f)(1)), as added by this title, is further amended by inserting ''or by a home health agency that is owned and operated by a critical access hospital (as defined in section 1861(mm)(1))'' after ''as defined in paragraph (2))'' in the matter preceding subparagraph (A).

(c) PAYMENTS TO CAH-OWNED SNFS.—

(1) IN GENERAL.—Section 1888(e) (42 U.S.C. 1395yy(e)) is amended—

(A) in paragraph (1), by striking ''and (12)'' and inserting ''(12), and (13)''; and

(B) by adding at the end the following new paragraph:

''(13) EXEMPTION OF CAH FACILITIES FROM PPS.—In determining payments under this part for covered skilled nursing facility services furnished on or after October 1, 2002, by a skilled nursing facility that is a distinct part unit of a critical access hospital (as defined in section 1861(mm)(1)) or is owned and operated by a critical access hospital—

''(A) the prospective payment system established under this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under subsection (a).''.

(2) CONFORMING CHANGES.—

(A) IN GENERAL.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 8(c)(1), is further amended in the matter preceding paragraph (1)—

(i) by inserting ''other than a skilled nursing facility providing covered skilled nursing facility services (as defined in section 1888(e)(2)) or posthospital extended care services to which section 1888(e)(13) applies,'' after ''inpatient critical access hospital services''; and

(ii) by striking ''1813 1886,'' and inserting ''1813, 1886, 1888,''.

(B) CONSOLIDATED BILLING.—

(i) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E)) is amended by inserting ''services to which paragraph (7)(C) or (13) of section 1888(e) applies and'' after ''other than''.

(ii) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a)(18) (42 U.S.C. 1395y(a)(18)) is amended by inserting ''(other than services to which paragraph (7)(C) or (13) of section 1888(e) applies)'' after ''section 1888(e)(2)(A)(i)''.

(d) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS OF CAHs.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting '', other than a distinct part psychiatric or rehabilitation unit to which paragraph (8) applies,'' after ''subsection (d)(1)(B)''; and

(2) by adding at the end the following new paragraph:

''(8) EXEMPTION OF CERTAIN DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS FROM COST LIMITS.—In determining payments under this part for inpatient hospital services furnished on or after October 1, 2002, by a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of subsection (d)(1)(B)) of a critical access hospital (as defined in section 1861(mm)(1))—

''(A) the limits imposed under the preceding paragraphs of this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services.''.

(e) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)), as amended by section 8(b)(4), is further amended by adding at the end the following new clause:

''(iii)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(g)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a rural community hospital on or after October 1, 2002, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i).

''(II) The services described in this subclause are inpatient critical access hospital services (as defined in section 1861(mm)(2)), outpatient critical access hospital services (as defined in section 1861(mm)(3)), extended care services provided pursuant to an agreement under section 1883, posthospital extended care services to which section 1888(e)(13) applies, home health services to which section 1895(f) applies, ambulance services to which section 1834(l) applies, and inpatient hospital services to which section 1886(b)(8) applies.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(f) TECHNICAL CORRECTIONS.—

(1) SECTION 403(b) OF BBRA 1999.—Section 1820(b)(2) (42 U.S.C. 1395i–4(b)(2)) is amended by striking ''nonprofit or public hospitals'' and inserting ''hospitals''.

(2) SECTION 203(b) OF BIPA 2000.—Section 1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

(A) by inserting ''section 1861(v)(1)(G) or'' after ''Notwithstanding''; and

(B) by striking ''covered skilled nursing facility''.

(g) EFFECTIVE DATES.—

(1) ELIMINATION OF REQUIREMENTS.—The amendment made by subsections (a) and (b) shall apply to services furnished on or after October 1, 2002.

(2) TECHNICAL CORRECTIONS.—

(A) BBRA.—The amendment made by subsection (f)(1) shall be effective as if included in the enactment of section 403(b) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113.

(B) BIPA.—The amendment made by subsection (f)(2) shall be effective as if included in the enactment of section 203(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554.

SEC. 11. 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.

Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''through 2002'' and inserting ''through 2007''.

SEC. 12. GAO STUDY ON WAGE INDEXING AND PLACEMENT OF HOSPITALS IN MSAs.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the reformation of wage indexing and the rules governing the placement of hospitals in metropolitan statistical areas.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation or administrative actions as the Comptroller General considers appropriate.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. JEFFORDS, Mr. CORZINE, Mr. BIDEN, and Mr. DURBIN):

S. 173. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Finance.

Mrs. BOXER. Mr. President, today I am reintroducing a bill that addresses a critical gap that now exists in the funding for the clean-up of the Nation's most toxic waste sites. The Toxic Clean-up Polluter Pays Renewal Act restores fees on oil, chemical and other industries to ensure that the Superfund Trust Fund, is solvent and that polluters, not American taxpayers, bear the burden of cleaning up sites that pose a threat to the health and safety of our communities.

I am pleased to be reintroducing this bill with Senator CHAFEE. In the 107th Congress, we worked together on a number of issues as the Chair and Ranking Member of the Superfund Subcommittee of the Environmental and Public Works Committee. I look forward to continuing that relationship.

The threats posed by Superfund sites affect communities in every corner of the country. One in every four Americans lives within four miles of a Superfund site. That's 70 million Americans and that includes 10 million children who are at risk of cancer and other health problems.

My State of California has the second highest number of Superfund sites in the country after New Jersey. And more that 40 percent of Californians live within four miles of a Superfund site.

Anyone who lives anywhere near a Superfund site knows about the terrible damage these industrial sites do to the community. Parents worry if their kids are safe when they find out there is a toxic mess down the street; real estate values go down the drain; and major challenges must be overcome to get the responsible parties to own up to their responsibility.

Fortunately, after Love Canal in 1980, Congress enacted the Superfund law to address the serious threat posed by these sites. And this law worked. Great progress was being made. Since the creation of this program, over 800 sites have been cleaned up. During the last four years of the Clinton administration, an average of 87 final cleanups occurred each year.

Unfortunately, this program has seen a sharp decline since the start of the Bush administration. The pace of cleanups has slowed to a crawl. Instead of 87 National Priority List sites a year, less than half of that are now being cleaned up. In 2002, only 42 sites were cleaned up.

At the same time, the heart of the Superfund law is under attack: the principle that polluters must pay for cleanups. And that is the issue that my bill will address.

The Superfund Trust Fund, which includes funds from Superfund fees previously paid by oil, chemical, and other industries, is nearly gone. It will be depleted by 2004. These fees are not large in scope. For example, for every barrel of oil it would only cost 9.7 cents. Manufacturers would only pay $4.45 for every ton of arsenic or mercury they produce. In addition, corporations that have over $2 million in taxable income under the alternative minimum tax would be required to pay only 0.12 percent on taxable income above $2 million dollars. That means that a company that has a taxable income of $2,010,000 would pay only $12.

These companies make millions on their sales. This fee is a small price to pay for a healthy, safe environment.

Unfortunately, the polluter's fee expired in 1995. President Clinton repeatedly tried to get it reinstated. President Bush has refused to do so in his past budgets, and indications are that he will not do so in the future. This means that a greater and greater share of the cost of Superfund cleanups will be borne by taxpayers rather than polluters.

In fact, the general taxpayers contributed just 18 percent to the Superfund in 1995. The figure is rising and American taxpayers will pay 54 percent of the Superfund budget by 2003.

This is unacceptable. That is why we are introducing the Toxic Clean-up

Polluter Pays Renewal Act. The principle of ''polluter pays'' must be protected, and the Superfund fees must be reinstated.

Polluter pays is fair. Polluter pays works. And polluter pays must continue. To shift the burden to all taxpayers is wrong, and we will fight this Administration's attempt to turn it back on the health of the American people.

Mr. DASCHLE. Mr. President, today I join Senators BOXER, CHAFEE, and others to introduce The Toxic Clean Up and Polluter Pays Renewal Act for. For more than 20 years, the polluter pays principle has been a cornerstone of environmental policy. The Superfund toxic waste cleanup program, based on that principle, has made it possible to clean up hundreds of toxic waste dumps across the country, and has led to better management of industrial pollution and waste.

The polluter pays principle is now under attack. Last year, the Bush administration announced that it would not seek reauthorization of the taxes levied on oil and chemical companies that go into the Superfund trust fund, which is used to pay for cleanup of toxic waste sites.

The Superfund program established three ways to pay for the cost of cleanups: 1) the company or individual responsible for creating the site pays for its cleanup; 2) the Environmental Protection Agency performs the cleanups and recoups the costs from the responsible party or parties; and 3) for those ''orphan'' sites where no responsible party can be found, or the party is insolvent or no longer in business, the cleanup is paid for out of the trust fund.

The Superfund trust fund was created primarily with revenue from a corporate environmental income tax and excise taxes on petroleum and certain chemicals. The trust fund received about $1.5 billion per year before the legislative authority to collect the taxes expired at the end of 1995. The trust fund is expected to run out of money in 2004, having dwindled from a high of $3.8 billion in 1996 to $28 million this year.

There are 1,234 sites on the EPA national priority list of toxic waste sites that need to be cleaned up. One in four Americans live within 4 miles of a Superfund site. These sites contain hazardous pollutants like arsenic, cyanide, and agent orange. Last year, EPA Administrator Christine Whitman told Congress that 75 sites on the national priority list would be cleaned up in 2001 and 65 sites would be cleaned up in 2002. The Bush administration then revised its plan, requiring that only 47 site cleanups be completed in 2001 and 42 in 2002. For 2003, the Bush administration has proposed to further decrease cleanups. On October 25, 2002, the EPA Inspector General found that the Bush administration has cut funding at 55 Superfund sites in 25 states for which regional officials had requested cleanup. For Fiscal Year 2002, EPA regional officials requested $510 million to clean up waste sites. In response, EPA headquarters obligated only $280 million, resulting in a shortfall of $229 million, or 45 percent.

The program is insufficiently funded to allow sites that are already scheduled to be cleaned up to move forward. This results in increased risks to human health and the environment and increased cleanup costs in the long term. Reinstating the Superfund fee would restore a source of funding to the program at a time when the backlog of sites requires more resources if the program is to be successful. The Bush administration is the first administration since Superfund was enacted in 1980 to oppose reinstating this tax on polluters—a policy that either halts cleanup efforts or shifts the cost to rank-and-file taxpayers. Either result is unacceptable.

The administration's plan to cut the Superfund program would seriously compromise the health of our communities and amount to an enormous windfall for the oil and chemical industries. Funding is the key to cleaning up these sites and protecting communities from harm. The ''polluter pays'' principle has worked well over the last two decades, and the financial burden should not be shifted from polluters to average taxpayers. The administration should change course and find ways to restore the ''polluter pays'' principle to the program and aggressively fund cleanups at contaminated sites.

By Mr. BIDEN:

S. 174. A bill to put a college education within reach, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, as another semester begins, many college students are worrying not only about their course loads and class work, but about how they will pay for school. Today, the average cost of room, board and tuition at a public four-year college has jumped to over $9,000. Tuition and fees alone jumped 9.6 percent from last year. The average cost of room, board and tuition at a private four-year college has jumped to just over $25,000 with tuition and fees having risen 5.8 percent.

What do the rising costs of attending a college or university mean for American families? It means that despite their best efforts to save and plan ahead, hard working families have to spend a larger percentage of their income than ever before to send their children to school. To attend my alma mater, the University of Delaware, it costs nearly 20 percent of a Delaware family's average annual income to cover costs. In fact just a few months ago, tuition was increased from the Fall to Spring semester by $120 to make up for an expected $3.1 cut in state aid to the university. If a Delaware family wants to send their child to a private university, approximately 50 percent of their income is required.

To help counteract these spiraling costs, I come to the floor today to reintroduce ''The Tuition Assistance for Families Act,'' a comprehensive package of tax credits and deductions, grants and scholarships that will assist American families in sending their children to college. Building upon the previous efforts of mine and others, this legislation will provide more families with much needed assistance so that the decision to send one's child to school will not be overshadowed by the decision of how to pay for it.

Specifically, the ''Tuition Assistance for Families Act'' will raise the current tuition tax deduction for higher education expenses from $3,000 to $12,000. Based on legislation that I previously sponsored with Senator SCHUMER, this $9,000 increase will go a long way in helping middle class American families afford tuition.

The ''Tuition Assistance for Families Act'' expands tuition tax credits already in law, the Hope Scholarship and the Lifetime Learning Tax Credit. Currently, the Lifetime Learning Credit allows a 20 percent tax credit on the first $10,000 of one's higher education expenses. Under my bill, this percentage jumps to 25 percent while the amount of expenses subjected to the credit rises to $12,000. This means that a student who files a return in tax year 2003 under my plan could get up to $3,000 back in taxes. This is $1,000 more than the $2,000 maximum allowable credit available under current law. That means that under my plan, up to an additional $1,000 can go directly back into a student's pocket to pay for books, a computer or tuition. To maximize the utility of the tax credits, my bill also raises the income limits for both the Hope Scholarship and the Lifetime Learning Credit to up to $130,000 per family, per year. This will allow more families to access the help that they need.

My bill reintroduces the idea of a $1,000 merit scholarship to be awarded to each high school senior graduating in the top 5 percent of his or her class. These types of scholarships not only reward student achievement, they help to ensure that the best and brightest students have the ability to go on to college thereby increasing the pool of well-qualified Americans in the workforce.

Finally, the ''Tuition Assistance for Families Act'' will increase the maximum Pell Grant award from $4,000 to $4,500. During the 2001–2002 school year, the maximum Pell Grant award covered approximately 42 percent of the average tuition, room and board at a public four-year university. During the 1975–76 it covered 84 percent of these same costs. Clearly, the purchasing power of these grants has declined dramatically over the years. As such, the debt load of American students and American families has increased as students have looked to federal and private loans to finance their education. Shockingly but not surprisingly, 64

percent of today's college students graduate with student loan debt at an average of $16,928, double the debt load of 1994.

It is the dream of every American parent to provide for their child a better life than they had themselves. Part of doing this involves sending your kids to college. This is why I have spent a great deal of my time in the Senate fighting to provide tax relief for middle class American families struggling with college costs. And while I was pleased when some of the ideas I advocated were adopted in the 1997 tax cut bill, it is clear that as tuition costs rise dramatically, Americans need additional assistance. The ''Tuition Assistance for Families Act'' will provide extra help so that more families can afford to give their children a brighter and better future. The ''Tuition Assistance for Families Act'' goes one step further in committing the federal government to making college more affordable for Americans.

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

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

S. 174

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 ''Tuition Assistance for Families Act''.

SEC. 2. EXPANSION OF TUITION TAX DEDUCTION.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 222(b)(2) of the Internal Revenue Code of 1986 (relating to dollar limitation) are amended to read as follows:

''(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), $12,000,

''(ii) with respect to any taxable year beginning in 2004 or 2005, 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) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning after 2003, each dollar amount referred to in subparagraph (A)(i) shall 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 '2002' for '1992'.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.''.

(b) PERMANENT DEDUCTION.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by striking subsection (e).

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

SEC. 3. EXPANSION OF LIFETIME LEARNING CREDIT.

(a) IN GENERAL.—Section 25A(c)(1) of the Internal Revenue Code of 1986 (relating to per taxpayer credit) is amended—

(1) by striking ''20 percent'' and inserting ''25 percent'', and

(2) by striking ''$10,000 ($5,000 in the case of taxable years beginning before January 1, 2003)'' and inserting ''$12,000''.

(b) INFLATION ADJUSTMENT.—Section 25A(h) of the Internal Revenue Code of 1986 (relating to inflation adjustments) is amended by adding at the end the following new paragraph:

''(3) DOLLAR LIMITATION ON AMOUNT OF LIFETIME LEARNING CREDIT.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 2003, the dollar amount referred to in subsection (c)(1) shall 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 '2002' for '1992'.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.''.

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

SEC. 4. INCREASE IN INCOME LIMITS FOR HOPE AND LIFETIME LEARNING CREDITS.

(a) IN GENERAL.—Section 25A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitation based on modified adjusted gross income) is amended by striking ''$40,000 ($80,000'' and inserting ''$55,000 ($110,000''.

(b) CONFORMING AMENDMENTS.—Section 25A(h)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2001'' in the matter preceding clause (i) and inserting ''2003'',

(2) by striking ''the $40,000 and $80,000 amounts'' in such matter and inserting ''the $55,000 and $110,000 amounts'', and

(3) by striking ''2000'' in clause (ii) and inserting ''2002''..

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

SEC. 5. MAXIMUM PELL GRANT AWARDS.

The Department of Education Appropriations Act, 2002 (Public Law 107–116) is amended under the heading ''Student Financial Assistance'' by striking ''$4,000'' and inserting ''$4,500''.

SEC. 6. ACADEMIC ACHIEVEMENT SCHOLARSHIPS.

(a) SCHOLARSHIPS.—The Secretary of Education is authorized to award a scholarship for academic year 2003–2004 and succeeding academic years to each student in a State who graduated in the top 5 percent of such student's graduating class from an accredited secondary school in academic year 2002-2003 or a succeeding academic year to enable such student to pay the cost of attendance at an institution of higher education.

(b) AMOUNT.—Each scholarship awarded under this section shall be in the amount of $1,000.

(c) USE.—Each student awarded a scholarship under this section shall use the funds to pay the cost of attendance at an institution of higher education.

(d) CONSTRUCTION OF NEEDS PROVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section, or any other Act, shall be construed to permit the receipt of a scholarship under this section to be counted for any needs test in connection with the awarding of any grant or the making of any loan under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other provision of Federal law relating to educational assistance.

(2) EXCEPTION.—In determining the need of a student for Federal financial assistance, an institution of higher education may take into consideration the amount of scholarship assistance received under this section if the total amount of scholarship assistance received under this section plus the amount of other financial assistance available to a student exceeds the student's cost of attendance at the institution.

(e) REGULATIONS.—The Secretary of Education shall promulgate regulations regarding how scholarships awarded under this section will be allocated to both public and private school students.

(f) DEFINITIONS.—In this section:

(1) COST OF ATTENDANCE.—The term 'cost of attendance' has the meaning given the term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 175. A bill to establish a direct line of authority for the Office of Trust Reform Implementation and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determination Act and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am proposing bipartisan legislation to provide the basis for reform of the administration and management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual Indians. I am pleased that my two colleagues from South Dakota, Senators DASCHLE and JOHNSON, are once again joining me in this effort.

Last year, we introduced a similar bill to serve as a legislative vehicle in the event a consensus agreement could be reached during an extensive dialogue between a designated tribal task force and the U.S. Department of Interior on administrative and legislative reforms to federal management of trust funds and assets. Unfortunately, the dialogue resulted in a stalemate. While we received many favorable comments to move forward with this legislation, and conducted a full committee hearing to consider it, a sufficient consensus did not exist to approve the legislation prior to the adjournment of the 107th session.

We are reintroducing this legislation again because we believe it is important to continue to offer a legislative remedy to the management problems plaguing the Interior Department and instill a meaningful role for Indian tribes in the process. Indian trust funds management continues to be mired in controversy and systemic mismanagement. Native American beneficiaries

continue to be denied a full reconciliation of money rightfully belonging to them.

The history of Indian trust funds management is long, exhaustive and fraught with controversy. It is a problem inherited by successive Administrations yet only limited progress has been made. The major structural changes called for in the 1994 American Indian Trust Fund Management Reform Act have not been accomplished. Two Special Trustees have resigned in frustration and high-level government officials have twice been held in civil contempt by the U.S. District Court in Washington, D.C. for breach of fiduciary duties.

No one is more frustrated about the lack of resolution to these long-standing problems than the Native American beneficiaries. However, recent reorganization plans submitted to the Court by the Interior Department earlier this month have only raised more controversy and concern among Indian tribes and beneficiaries as to the extent the Department will fully account for lost and mismanaged trust accounts. Significant questions have also been raised as to the impact of these proposed plans on long-standing Federal policies of self-determination and the function of the Bureau of Indian Affairs.

I cannot speak as to the merits of the Department's recent plans. The fact is, many in the Congress were not notified of the Department's intended actions nor has there been an opportunity to evaluate these plans through the respective legislative committees of jurisdiction. I have sought a commitment from the incoming Chairman of the Senate Committee on Indian Affairs, Senator BEN NIGHTHORSE CAMPBELL, to hold hearings as soon as possible on recent Department proposals that will restructure trust funds management as well as to consider legislative proposals such as the one we're proposing today.

The purpose of this legislation we are introducing is simple. It focuses on two primary changes to the 1994 American Indian Trust Fund Management Reform Act, the underlying law governing Indian trust funds management. First, it creates a single line-of-authority in the Interior Department by establishing a Deputy Secretary for Trust Management and Reform; and second, the bill strengthens provisions for Indian tribes and beneficiaries to directly manage or co-manage with the Interior secretary trust funds and assets, based on successful self-determination policies.

A fundamental objective of this legislation is to raise the profile of Indian trust funds management within the Interior Department and provide a statutory basis for Indian tribes to assume a greater management role in future management of their trust funds and trust assets. The structure of this legislation is similar to the bill introduced last year, but it is modified to reflect comments received from Indian tribes.

The legislation affirms the fiduciary standards to be applied to the management of Indian trust funds and assets. The Office of Special Trustee is abolished and replaced with the Office of Trust Reform under the direction of a new Deputy Secretary. The existing Advisory Committee to the Special Trustee is replaced with a Task Force composed of representatives of the tribes and the Department who will work with the new Deputy Secretary to develop appropriate standards and further necessary changes.

Senator DASCHLE, Senator JOHNSON and I introduce this legislation as a demonstration of our continuing commitment to seek a real and meaningful trust reform solution that provides an active role for tribal participation and consultation. We hope this legislation will prompt the necessary dialogue to ensure reform to Indian trust funds and trust assets management in a way that increases accountability of the Interior Department and respects the fact that the tribes must be involved as active participants without the threat of termination of the trust responsibility.

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. 175

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 ''Indian Trust Asset and Trust Fund Management and Reform Act of 2003''.

SEC. 2. FINDINGS.

Congress finds and affirms that the proper discharge of trust responsibility of the United States requires, without limitation, that the trustee, using a high degree of care, skill, and loyalty—

(1) protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion;

(2) ensure that any management of Indian trust assets required to be carried out by the Secretary—

(A) promotes the interest of the beneficial owner; and

(B) supports, to the maximum extent practicable in accordance with the trust responsibility of the Secretary, the beneficial owner's intended use of the assets;

(3)(A) enforce the terms of all leases or other agreements that provide for the use of trust assets; and

(B) take appropriate steps to remedy trespass on trust or restricted land;

(4) promote tribal control and self-determination over tribal trust land and resources;

(5) select and oversee persons that manage Indian trust assets;

(6) confirm that Indian tribes that manage Indian trust assets pursuant to contracts and compacts authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) protect and prudently manage those Indian trust assets;

(7) provide oversight and review of the performance of the trust responsibility of the Secretary, including Indian trust asset and investment management programs, operational systems, and information systems;

(8) account for and identify, collect, deposit, invest, and distribute, in a timely manner, income due or held on behalf of tribal and individual Indian account holders;

(9) maintain a verifiable system of records that, at a minimum, is capable of identifying, with respect to a trust asset—

(A) the location of the trust asset;

(B) the beneficial owners of the trust asset;

(C) any legal encumbrances (such as leases or permits) applicable to the trust asset;

(D) the user of the trust asset;

(E) any rent or other payments made;

(F) the value of trust or restricted land and resources associated with the trust asset;

(G) dates of—

(i) collections;

(ii) deposits;

(iii) transfers;

(iv) disbursements;

(v) imposition of third-party obligations (such as court-ordered child support or judgments);

(vi) statements of earnings;

(vii) investment instruments; and

(viii) closure of all trust fund accounts relating to the trust fund asset;

(H) documents pertaining to actions taken to prevent or compensate for any diminishment of the Indian trust asset; and

(I) documents that evidence the actions of the Secretary regarding the management and disposition of the Indian trust asset;

(10) establish and maintain a system of records that—

(A) permits beneficial owners to obtain information regarding Indian trust assets in a timely manner; and

(B) protects the privacy of that information;

(11) invest tribal and individual Indian trust funds to ensure that the trust account remains reasonably productive for the beneficial owner consistent with market conditions existing at the time at which investment is made;

(12) communicate with beneficial owners regarding the management and administration of Indian trust assets; and

(13) protect treaty-based fishing, hunting, gathering, and similar rights-of-access and resource use on traditional tribal land.

SEC. 3. DEFINITIONS.

Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking ''(2) The term'' and inserting the following:

''(5) INDIAN TRIBE.—The term'';

(3) in paragraph (3), by striking ''(3) The term'' and inserting the following:

''(8) SECRETARY.—The term'';

(4) in paragraph (4), by striking ''(4) The term'' and inserting the following:

''(6) OFFICE.—The term'';

(5) in paragraph (5), by striking ''(5) The term'' and inserting the following:

''(2) BUREAU.—The term'';

(6) in paragraph (6), by striking ''(6) The term'' and inserting the following:

''(3) DEPARTMENT.—The term'';

(7) by moving paragraphs (2), (3), (5), (6), and (8) (as redesignated by this subsection) so as to appear in numerical order;

(8) by inserting before paragraph (2) (as redesignated by paragraph (5)) the following:

''(1) BENEFICIAL OWNER.—The term 'beneficial owner' means an Indian tribe or member of an Indian tribe that is the beneficial owner of Indian trust assets.'';

(9) by inserting after paragraph (3) (as redesignated by paragraph (6)) the following:

''(4) DEPUTY SECRETARY.—The term 'Deputy Secretary' means the Deputy Secretary

for Trust Management and Reform appointed under section 307(a)(2).'';

(10) by inserting after paragraph (6) (as redesignated by paragraph (4)) the following:

''(7) REFORM OFFICE.—The term 'Reform Office' means the Office of Trust Reform Implementation and Oversight established by section 307(e).''; and

(11) by adding at the end the following:

''(9) TASK FORCE.—The term 'Task Force' means the Tribal Task Force for Trust Reform established under section 307(a).

''(10) TRUST ASSETS.—The term 'trust assets' means all tangible property including land, minerals, coal, oil and gas, forest resources, agricultural resources, water and water sources, and fish and wildlife held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe pursuant to Federal law.

''(11) TRUST FUNDS.—The term 'trust funds' means all funds held by the Secretary for the benefit of an Indian tribe or and individual member of an Indian tribe pursuant to Federal law.

''(12) TRUSTEE.—The term 'trustee' means the Secretary or any other person that is authorized to act as a trustee for Indian trust assets and trust funds.''.

SEC. 4. RESPONSIBILITIES OF SECRETARY.

Section 102 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4011) is amended to read as follows:

''SEC. 4011. RESPONSIBILITIES OF SECRETARY.

''(a) ACCOUNTING FOR DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.—

''(1) IN GENERAL.—The Secretary shall account for the daily and annual balances of all trust funds that are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

''(2) PERIODIC STATEMENT OF PERFORMANCE.—

''(A) IN GENERAL.—Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and member of Indian tribe with respect to which funds are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

''(B) REQUIREMENTS.—Each statement under subparagraph (A) shall identify, with respect to the period covered by the statement—

''(i) the source, type, and status of the funds;

''(ii) the beginning balance of the funds;

''(iii) the gains and losses of the funds;

''(iv) receipts and disbursements of the funds; and

''(v) the ending balance of the funds.

''(3) ANNUAL AUDIT.—With respect to each account containing trust funds in an amount in excess of $1,000, the Secretary shall—

''(A) conduct, for each fiscal year, an audit of all trust funds described in paragraph (1); and

''(B) include, in the first statement of performance completed under paragraph (2) after completion of the audit, a letter describing the results of the audit.

''(b) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities described in subsection (a), subject to the availability of appropriations, the Secretary, in carrying out the trust responsibility of the United States, shall, at a minimum—

''(1) provide for adequate systems for accounting for and reporting trust fund balances;

''(2) provide for adequate controls over receipts and disbursements;

''(3) provide for periodic, timely reconciliations of financial records to ensure the accuracy of account information;

''(4) determine accurate cash balances;

''(5) prepare and supply to account holders periodic account statements;

''(6) establish and publish in the Federal Register consistent policies and procedures for trust fund management and accounting;

''(7) provide adequate staffing, supervision, and training for trust fund management and accounting; and

''(8) manage natural resources located within the boundaries of Indian reservations and trust land.''.

SEC. 5. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES.

Title II of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4021 et seq.) is amended—

(1) by striking sections 202 and 203; and

(2) by inserting after section 201 the following:

''SEC. 202. PARTICIPATION IN TRUST FUND AND TRUST ASSET MANAGEMENT ACTIVITIES BY INDIAN TRIBES.

''(a) PLANNING PROGRAM.—To meet the purposes of this title, an Indian Trust Fund and Trust Asset Management and Monitoring Plan (in this section referred to as the 'Plan') shall be developed and implemented as follows:

''(1) Pursuant to a self-determination contract or compact under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc), an Indian tribe may develop or implement a Plan to provide for management of the trust funds and assets (or portions of trust funds or assets) of which the Indian tribe is the beneficial owner. Subject to the provisions of paragraphs (3) and (4), the tribe shall have broad discretion in designing and carrying out the planning process.

''(2) To include in a Plan particular trust funds or assets held by multiple individuals, an Indian tribe shall obtain the approval of a majority of the individuals who hold an interest in any such trust funds or assets.

''(3) The Plan shall be submitted to the Secretary for approval pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

''(4) If an Indian tribe chooses not to develop or implement a Plan, the Secretary shall, at the request of the Indian tribe, develop or implement, as appropriate, a Plan in close consultation with the affected Indian tribe.

''(5) Whether developed directly by the Indian tribe or by the Secretary, the Plan shall—

''(A) determine the amount and source of funds held in trust;

''(B) identify and include an inventory of trust assets based on the information available to the Indian tribe and the Secretary;

''(C) identify specific tribal goals and objectives;

''(D) establish management objectives for the funds and assets held in trust;

''(E) define critical values of the Indian tribe and its members and provide identified management objectives;

''(F) identify actions to be taken to reach established objectives;

''(G) use existing survey documents, reports and other research from Federal agencies, tribal community colleges, and land grant universities; and

''(H)(i) be completed not later than 3 years after the date of initiation of activity to establish the Plan; and

''(ii) be revised periodically thereafter as necessary to accomplish the purposes of this Act.

''(b) MANAGEMENT AND ADMINISTRATION.—Plans developed and approved under subsection (a) shall govern the management and administration of funds and assets (or portions of funds and assets) held in trust by the Bureau and the Indian tribal government.

''(c) PLAN DOES NOT TERMINATE TRUST.—Developing or implementing a Plan shall not be construed or deemed to constitute a termination of the trust status of the assets or funds that are included in, or subject to, the Plan.

''(d) LIABILITY.—An Indian tribe managing and administering trust funds and trust assets in a manner that is consistent with an approved Plan shall not be liable for waste or loss of an asset or funds that are included in such Plan.

''(e) INDIAN PARTICIPATION IN MANAGEMENT ACTIVITIES.—

''(1) TRIBAL RECOGNITION.—The Secretary shall conduct all management activities of funds and assets held in trust in accordance with goals and objectives set forth in a Plan approved pursuant to and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

''(2) TRIBAL LAWS.—

''(A) IN GENERAL.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal law pertaining to the management of funds and assets held in trust.

''(B) DUTIES.—The Secretary shall—

''(i) provide assistance in the enforcement of tribal laws described in subparagraph (A);

''(ii) provide notice of such tribal laws to persons or entities dealing with tribal funds and assets held in trust; and

''(iii) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

''(3) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the Plan, or with a tribal law, the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility under Federal law.

''(4) SOVEREIGN IMMUNITY.—This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

''(5) TRUST RESPONSIBILITY.—Nothing in this section shall be construed to diminish or expand the trust responsibility of the United States toward Indian funds and assets held in trust, or any legal obligation or remedy resulting from such funds and assets.

''(f) REPORT.—

''(1) IN GENERAL.—Not later than 180 days after the enactment of this section, and annually thereafter, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives.

''(2) CONTENTS.—The report required under paragraph (1) shall detail the following:

''(A) The efforts of the Department to implement this section.

''(B) The nature and extent of consultation between the Department, Tribes, and individual Indians with respect to implementation of this section.

''(C) Any recommendations of the Department for further changes to this Act, accompanied by a record of consultation with Tribes and individual Indians regarding such recommendations.''.

SEC. 6. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

(a) IN GENERAL.—Section 302 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042) is amended to read as follows:

''SEC. 302. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Department the position of Deputy Secretary for Trust Management and Reform.

''(2) APPOINTMENT AND REMOVAL.—

''(A) APPOINTMENT.—The Deputy Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) TERM.—The Deputy Secretary shall be appointed for a term of 6 years.

''(C) REMOVAL.—The Deputy Secretary may be removed only for good cause.

''(3) ADMINISTRATIVE AUTHORITY.—The Deputy Secretary shall report directly to the Secretary.

''(4) COMPENSATION.—The Deputy Secretary shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay prescribed for Level II of the Executive Schedule under section 5313 of title 5, United States Code.

''(b) DUTIES.—The Deputy Secretary shall—

''(1) oversee all trust fund and trust asset matters of the Department, including—

''(A) administration and management of the Reform Office;

''(B) financial and human resource matters of the Reform Office; and

''(C) all duties relating to trust fund and trust asset matters; and

''(2) engage in appropriate government-to-government relations and consultations with Indian tribes and individual trust asset and trust fund account holders on matters involving trust asset and trust fund management and reform within the Department.

''(c) STAFF.—In carrying out this section, the Deputy Secretary may hire such staff having expertise in trust asset and trust fund management, financial organization and management, and tribal policy as the Deputy Secretary determines is necessary to carry out this title.

''(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to diminish any responsibility or duty of the Assistant Secretary of the Interior for Indian Affairs, or any other Federal official, relating to any duty of the Assistant Secretary or official established under this Act or any other provision of law.

''(2) TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM.—Notwithstanding any other provision of law, the Deputy Secretary shall have overall management and oversight authority on matters of the Department relating to trust asset and trust fund management and reform (including matters that, as of the day before the date of enactment of the Indian Trust Asset and Trust Fund Management and Reform Act of 2003, were carried out by the Commissioner of Indian Affairs).

''(e) OFFICE OF TRUST REFORM IMPLEMENTATION AND OVERSIGHT.—

''(1) ESTABLISHMENT.—There is established within the Office of the Secretary the Office of Trust Reform Implementation and Oversight.

''(2) REFORM OFFICE HEAD.—The Reform Office shall be headed by the Deputy Secretary.

''(3) DUTIES.—The Reform Office shall—

''(A) supervise and direct the day-to-day activities of the Assistant Secretary of the Interior for Indian Affairs, the Commissioner of Reclamation, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service, to the extent they administer or manage any Indian trust assets or funds;

''(B) administer, in accordance with title II, all trust properties, funds, and other assets held by the United States for the benefit of Indian tribes and individual members of Indian tribes;

''(C) require the development and maintenance of an accurate inventory of all trust funds and trust assets;

''(D) ensure the prompt posting of revenue derived from a trust fund or trust asset for the benefit of each Indian tribe (or individual member of each Indian tribe) that owns a beneficial interest in the trust fund or trust asset;

''(E) ensure that all trust fund accounts are audited at least annually, and more frequently as determined to be necessary by the Deputy Secretary;

''(F) ensure that the Assistant Secretary of the Interior for Indian Affairs, the Director of the Bureau of Land Management, the Commissioner of Reclamation, and the Director of the Minerals Management Service provide to the Secretary current and accurate information relating to the administration and management of trust funds and trust assets;

''(G) provide for regular consultation with trust fund account holders on the administration of trust funds and trust assets to ensure, to the maximum extent practicable in accordance with applicable law and a Plan approved under section 202, the greatest return on those funds and assets for the trust fund account holders; and

''(H) enter into contracts and compacts under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc) to provide for the management of trust assets and trust funds by Indian tribes pursuant to a Trust Fund and Trust Asset Management and Monitoring Plan developed under section 202 of this Act.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041 et seq.) is amended by striking the title heading and inserting the following:

''TITLE III—REFORMS RELATING TO TRUST RESPONSIBILITY''.

(2) Section 301(1) of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041(1)) is amended by striking ''by establishing in the Department of this Interior an Office of Special Trustee for American Indians'' and inserting ''by directing the Deputy Secretary''.

(3) Section 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 303. ADDITIONAL AUTHORITIES AND FUNCTIONS OF THE DEPUTY SECRETARY.'';

(B) in subsection (a)(1), by striking ''section 302(b) of this title'' and inserting ''section 302(a)(2)'';

(C) in subsection (e)—

(i) by striking the subsection heading and inserting the following:

''(e) ACCESS OF DEPUTY SECRETARY.—''; and

(ii) by striking ''and his staff'' and inserting ''and staff of the Deputy Secretary''; and

(D) by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

(4) Sections 304 and 305 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044, 4045) are amended by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

SEC. 7. ADVISORY BOARD AND TRIBAL TASK FORCE.

The American Indian Trust Fund Management Reform Act of 1994 is amended by striking section 306 (25 U.S.C. 4046) and inserting the following:

''SEC. 306. TRIBAL TASK FORCE ON TRUST REFORM.

''(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this section, the Deputy Secretary shall establish a Tribal Task Force on Trust Reform.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Task Force shall be composed of 18 members and 12 alternates, of which—

''(A) 6 members shall—

''(i) serve as primary members; and

''(ii) be selected by the Deputy Secretary;

''(B) 12 members shall—

''(i) serve as primary members; and

''(ii) be selected by members of federally-recognized Indian tribes located within the regions of the Bureau represented by the members; and

''(C) the 12 alternates shall—

''(i) serve as alternate members for the members described in subparagraph (B); and

''(ii) be selected by members of federally-recognized Indian tribes located within the regions of the Bureau represented by the members.

''(2) REGIONAL REPRESENTATION.—Each region of the Bureau shall be represented by a primary member and alternate member on the Task Force.

''(3) TERM.—A member of the Task Force shall serve for a term of 2 years.

''(c) DUTIES.—The Task Force, in cooperation with the Deputy Secretary, shall—

''(1) not later than 1 year after the date of enactment of this section, conduct and submit to Congress a report on a study of appropriate standards and procedures for inventorying and management of trust assets; and

''(2) not later than 2 years after the date of enactment of this section, identify, and submit to Congress a report that includes recommendations relating to, modifications to existing law relating to trust reform, including recommendations on matters such as—

''(A) the need for an independent commission to oversee the administration of trust funds and assets; and

''(B) the most beneficial administrative structure and procedures.

''(d) FACA.—The Task Force shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

''(f) TERMINATION OF AUTHORITY.—The Task Force and authority of the Task Force under this section terminate on the date that is 3 years after the date of enactment of the Indian Trust Asset and Trust Fund Management and Reform Act of 2003.''.

SEC. 8. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall promulgate regulations to carry out the amendments made by this Act.

(b) ACTIVE PARTICIPATION.—

(1) IN GENERAL.—All regulations promulgated under subsection (a) shall be developed through a negotiated rulemaking in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedures Act'').

(2) PARTICIPANTS.—With the exception of the Secretary of the Interior, each participant in the negotiated rulemaking under

paragraph (1) shall be a federally-recognized Indian tribe.

SEC. 9. NO EFFECT ON CERTAIN JUDICIAL DECISION.

Nothing in this Act or any amendment made by this Act limits or otherwise affects any finding, remedy, jurisdiction, authority, or discretion of any court with respect to Cobell v. Norton, Civ. No. 96–1285 (RCL).

Mr. DASCHLE. Mr. President, today I am joining with Senators JOHN MCCAIN and TIM JOHNSON in reintroducing legislation that will focus attention on the need to address and correct the longstanding problem of mismanagement of the assets and funds held by the United States in trust for federally-recognized Indian tribes and individual American Indians.

This is a problem that has festered for far too long outside the spotlight of public recognition. And it is a problem that is undermining urgently needed efforts to improve the quality of life in Indian Country.

Indian Country has faced many challenges over the years. Few, however, have been more important, or more vexing, than that of restoring integrity to trust fund management.

For over a hundred years, the Department of Interior has managed a trust fund funded with the proceeds of leasing of oil, gas, land and mineral rights for the benefit of Indian people. Today, the trust fund may owe as much as $10 billion to as many as 500,000 Indians.

To provide some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota and Nebraska comprise 10 million acres of trust lands representing over one-third of the tribal trust assets. Many enrolled members of the nine South Dakota tribes have individual trust accounts.

How these trust funds have been and will be managed is being litigated in Cobell v. Norton, and the resolution of this lawsuit will have far-reaching implications throughout Indian Country. It is foolhardly not to evaluate potential solutions in the context of this lawsuit.

There is clear consensus in Indian Country that the current administration of the trust fund is a failure. The daunting question has always been how to reform it.

In November 2001, the Secretary of the Interior unveiled her controversial plan to reorganize the Bureau of Indian Affairs, BIA, and segregate the oversight and accounting of trust-related assets in a new Bureau of Indian Trust Asset Management, BITAM. In testimony before the U.S. District Court, the Secretary acknowledged that, ''We undoubtedly do have some missing data, and we are all going to have to find a way to deal with the fact that some information no longer exists.''

The Secretary's controversial reorganization proposal, a hasty effort to avoid being held in contempt of court, was presented with minimal consultation with the tribes or individual Indian account holders, not to mention Congress.

In South Dakota, tribal leaders communicated to TIM JOHNSON and me their concern that the Secretary's solution appeared to be a fait accompli, conceived without meaningful participation of the stakeholders most directly affected by it. They felt strongly that this proposal should not be implemented without further consultation with the tribes. Meanwhile, the Secretary of the Interior and the Assistant Secretary on Indian Affairs, despite their reorganization plan, were both subsequently found in contempt of court.

In the early months of 2002, in the face of Administration assurances that its reorganization plan was not set in stone, the Interior Department requested that $200 million from the BIA and $100 million from the Office of the Special Trustee, be reprogrammed to ''a single organization that will report to the Secretary through an Assistant Secretary, Indian Trust.'' This contradiction set off red flags in Congress, and a clear and direct message was sent to Secretary Norton by Senators INOUYE, CAMPBELL, BYRD, JOHNSON and others that no action should be taken to implement her proposed reorganization plan administratively. Notwithstanding this clear signal, just this last December, while most members of Congress were out of town and with very little fanfare, the Secretary submitted yet another smaller request to reprogram BIA funds for trust fund reform activities.

Given these developments, Senators MCCAIN, JOHNSON and I feel that Congress should be more assertive in forcing discussion of what role Congress might play in ensuring that tribes and individual Indian account holders have a voice on shaping trust reform policy. It is our hope that this bill will promote more constructive dialogue among the Congress, the Interior Department and Indian Country on this problem and lead to a true consensus solution.

With that goal in mind, the bill was received by representatives of the Great Plains tribes last Congress at a recent meeting in Rapid City. And earlier today, the Great Plains Tribal Chairman's Association urged me to reintroduce this legislation in the new Congress.

Mike Jandreau, Chairman of the Lower Brule Sioux Tribe and member of the Secretary's Trust Reform Task Force, has been an effective advocate and champion of trust reform, not only for his tribe, but also for all Indian people. He and Flandreau-Santee Sioux Tribal Chairman and Great Plains Tribal Chairman's Association President Tom Ranfranz led a very impressive and productive working sessions with tribal leaders from South Dakota, North Dakota and Nebraska. Mike and Tom have also worked with tribal leaders from Montana and Wyoming to raise awareness of the stakes of this issue and build support for the bill that regrettably died at the end of the 107th Congress due to Administration opposition.

I commend the willingness of these participating Great Plains and Rocky Mountain regional tribal leaders to be part of a public process that will hopefully will not stop until Indian Country feels comfortable with a final product they create. The McCain-Johnson-Daschle bill is intended to contribute to this result.

At this point, I would like to remind my colleagues some initial observations on this proposal that were raised in the last Congress by participating South Dakota treaty tribes and tribes of the Great Plains and Rocky Mountain regions that are still relevant in the 108th Congress. These comments demonstrate how thoughtfully Indian leaders are approaching the trust problem, and I fully expect that their suggestions will be considered and incorporated as the bill moves through the committee process.

The following issues are of great importance to the Great Plains Tribal Chairman's Association:

1. Providing the Deputy Secretary with sufficient authority to ensure that reform of the administration of trust assets is permanent. They do not believe the bill at present gives the Deputy Secretary the full and unified authority needed;

2. Including cultural resources as a trust asset for management purposes;

3. Incorporating the Office of Surface Mining and Bureau of Reclamation and other related agencies within the Department of the Interior and the Federal government under the purview of the Deputy Secretary;

4. Assuring that the legislation not infringe on tribal sovereignty by interfering with tribal involvement in the management of individual trust assets or tribal assets, or both;

5. Maintaining the Bureau of Indian Affairs' role as an advocate for tribe;

6. Maintaining current levels of Bureau of Indian Affairs employment;

7. Applying Indian employment preference to all positions created by the legislation;

8. Providing in law that Bureau of Indian Affairs funds not be used to fund the Deputy Secretary appointed by the legislation;

9. Stressing the importance of appropriating adequate funding to allow reform to succeed;

10. Reflecting in the legislative history that much of the funding needed for real trust reform be allocated at the local agency and regional levels of the Bureau of Indian Affairs; and

11. Placing more tribal representatives, including tribal resource managers, from various Bureau of Indian Affairs regions on the advisory board to the Office of Trust Reform.

The issues of trust reform and reorganization within the Bureau of Indian Affairs are nothing new to us here on Capitol Hill, or in Indian Country. Collectively, we have endured many efforts, some will intentioned and some

clearly not, to fix, reform, adjust, improve, streamline, downsize, and even terminate the Bureau of Indian Affairs and its trust activities.

These efforts have been pursued under both Republican and Democratic administrations. Unfortunately, they have rarely included meaningful involvement from tribal leadership, or recognized the Federal Government's treaty obligation to tribes.

I would be remiss if I did not commend this Administration for taking the time to travel to Indian Country to discuss this problem. Their interest in promoting dialogue with tribal leaders was welcome and appreciated. At the same time, however, talk must be supported by action if the trust management problem is to be successfully resolved.

The recent unveiling last month of the Department of the Interior's attempt to implement a trust reorganization plan without full tribal or congressional consultation in response to the Cobell v. Norton case was appalling and an egregious act by the federal government to Indian stakeholders. One tribal task force member described Interior's latest deceptive actions as ''a sham.'' That sentiment is widespread in Indian Country and exacerbates an underlying frustration and disappointment that is both understandable and disconcerting.

I share this frustration and disappointment. And I am concerned that the progress made jointly last year could be wasted away by a rising tide of disillusionment and mounting sense of betrayal.

The message I have heard from tribal leaders is clear. What is needed to achieve true reform are clear trust standards, one clear line of authority for trust management and the resources necessary to achieve meaningful reform, respect for self-determination, and meaningful consultation.

Meaningful consultation and acceptance of tribal status is the critical starting point if we hope to find a workable solution to the very real problem of trust management. The bill Senators MCCAIN, JOHNSON and I are introducing today reflects this conviction.

There is no more important challenge facing the tribes and their representatives in Congress than that of restoring accountability and efficiency to trust management. And nowhere do the principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets.

I am disappointed that this problem was not solved to the satisfaction of tribal leaders in the last Congress. Yet, that fight is not over, and my commitment to my South Dakota tribal constituents and Indian Country on this important issue has not diminished.

Last week, the Senate Democratic leadership introduced its priority bills for the 108th Congress. I am proud that trust reform is included as part of our civil rights legislation.

An effective long-term solution to the trust problem must be based on government-to-government dialogue. The McCain/Johnson/Daschle bill will not only provide the catalyst for meaningful tribal involvement in the search for solutions, it can also form the basis for true trust reform. I look forward to participating with tribal leaders, Administration officials and my congressional colleagues in pursuit of this essential objective.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 20—MAKING MINORITY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 108TH CONGRESS

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 20

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the minority party's membership on the following standing committees for the 108th Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin (Ranking Member), Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Baucus, Mrs. Lincoln, Mr. Miller, Ms. Stabenow, Mr. Nelson of Nebraska, and Mr. Dayton.

Committee on Appropriations: Mr. Byrd (Ranking Member), Mr. Inouye, Mr. Hollings, Mr. Leahy, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, Mr. Durbin, Mr. Johnson, and Ms. Landrieu.

Committee on Armed Services: Mr. Levin (Ranking Member), Mr. Kennedy, Mr. Byrd, Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Dayton, Mr. Bayh, Mrs. Clinton, and Mr. Pryor.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes (Ranking Member), Mr. Dodd, Mr. Johnson, Mr. Reed, Mr. Schumer, Mr. Bayh, Mr. Miller, Mr. Carper, Ms. Stabenow, and Mr. Corzine.

Committee on Commerce, Science, and Transportation: Mr. Hollings (Ranking Member), Mr. Inouye, Mr. Rockefeller, Mr. Kerry, Mr. Breaux, Mr. Dorgan, Mr. Wyden, Mrs. Boxer, Mr. Nelson of Florida, Ms. Cantwell, and Mr. Lautenberg.

Committee on Energy and Natural Resources: Mr. Bingaman (Ranking Member), Mr. Akaka, Mr. Dorgan, Mr. Graham, Mr. Wyden, Mr. Johnson, Ms. Landrieu, Mr. Bayh, Mrs. Feinstein, Mr. Schumer, and Ms. Cantwell.

Committee on Environment and Public Works: Mr. Jeffords (Ranking Member), Mr. Baucus, Mr. Reid, Mr. Graham, Mr. Lieberman, Mrs. Boxer, Mr. Wyden, Mr. Carper, and Mrs. Clinton.

Committee on Finance: Mr. Baucus (Ranking Member), Mr. Rockefeller, Mr. Daschle, Mr. Breaux, Mr. Conrad, Mr. Graham, Mr. Jeffords, Mr. Bingaman, Mr. Kerry, and Mrs. Lincoln.

Committee on Foreign Relations: Mr. Biden (Ranking Member) Mr. Sarbanes, Mr. Dodd, Mr. Kerry, Mr. Feingold, Mrs. Boxer, Mr. Nelson of Florida, Mr. Rockefeller, and Mr. Corzine.

Committee on Governmental Affairs: Mr. Lieberman (Ranking Member), Mr. Levin, Mr. Akaka, Mr. Durbin, Mr. Carper, Mr. Dayton, Mr. Lautenberg, and Mr. Pryor.

Committee on Health, Education, Labor, and Pensions: Mr. Kennedy (Ranking Member), Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Jeffords, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Edwards, and Mrs. Clinton.

Committee on the Judiciary: Mr. Leahy (Ranking Member), Mr. Kennedy, Mr. Biden, Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Schumer, Mr. Durbin, and Mr. Edwards.

Committee on Rules and Administration: Mr. Dodd (Ranking Member), Mr. Byrd, Mr. Inouye, Mrs. Feinstein, Mr. Schumer, Mr. Breaux, Mr. Daschle, Mr. Dayton, and Mr. Durbin.

Committee on Small Business and Entrepreneurship: Mr. Kerry (Ranking Member), Mr. Levin, Mr. Harkin, Mr. Lieberman, Ms. Landrieu, Mr. Edwards, Ms. Cantwell, Mr. Bayh, and Mr. Pryor.

Committee on Veterans' Affairs: Mr. Graham (Ranking Member), Mr. Rockefeller, Mr. Jeffords, Mr. Akaka, Mrs. Murray, Mr. Miller, and Mr. Nelson of Nebraska.

Special Committee on Aging: Mr. Breaux (Ranking Member), Mr. Reid, Mr. Kohl, Mr. Jeffords, Mr. Feingold, Mr. Wyden, Mrs. Lincoln, Mr. Bayh, Mr. Carper, and Ms. Stabenow.

Committee on the Budget: Mr. Conrad (Ranking Member), Mr. Hollings, Mr. Sarbanes, Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Johnson, Mr. Byrd, Mr. Nelson of Florida, Ms. Stabenow, and Mr. Corzine.

Select Committee on Ethics: Mr. Reid (Vice Chairman), Mr. Akaka, and Mrs. Lincoln.

Committee on Indian Affairs: Mr. Inouye (Vice Chairman), Mr. Conrad, Mr. Reid, Mr. Akaka, Mr. Dorgan, Mr. Johnson, and Ms. Cantwell.

Select Committee on Intelligence: Mr. Rockefeller (Vice Chairman), Mr. Levin, Mrs. Feinstein, Mr. Wyden, Mr. Durbin, Mr. Bayh, Mr. Edwards, and Ms. Mikulski.

Joint Economic Committee: Mr. Reed (Vice Chairman), Mr. Kennedy, Mr. Sarbanes, and Mr. Bingaman.

The salary allocation for each Senate committee and subgroup shall reflect the level set forth in the Senate Joint Leadership letter which shall be printed in the Congressional Record following the adoption of this resolution.

SENATE RESOLUTION 21—EXPRESSING THE THANKS OF THE SENATE TO THE HONORABLE ROBERT C. BYRD FOR HIS SERVICE AS PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE AND TO DESIGNATE SENATOR BYRD AS PRESIDENT PRO TEMPORE EMERITUS OF THE UNITED STATES SENATE

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 21

Resolved, That the United States Senate expresses its deepest gratitude to Senator Robert C. Byrd for his dedication and commitment during his service to the Senate as the President Pro Tempore.

Further, as a token of appreciation of the Senate for his long and faithful service, Senator Robert C. Byrd is hereby designated President Pro Tempore Emeritus of the United States Senate.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1. Mr. STEVENS proposed an amendment to the joint resolution H.J. Res. 2,