By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. CONRAD, Mr. BAUCUS, Mr. JOHNSON, and Mr. KOHL):

S. 378. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

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

S. 379. A bill to amend title XVIII of the Social Security Act to improve the medicare incentive payment program; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. CARPER, and Mr. BROWNBACK):

S. 380. A bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes; to the Committee on Governmental Affairs.

By Ms. LANDRIEU (for herself, Mr. DEWINE, Ms. STABENOW, Mr. BREAUX, and Ms. COLLINS):

S. 381. A bill to provide the Secretary of Housing and Urban Development the authority to establish programs that serve intergenerational families, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DORGAN (for himself, Mr. CAMPBELL, Mr. BINGAMAN, Mr. INOUYE, Ms. LANDRIEU, Mr. JOHNSON, Ms. CANTWELL, Mr. WARNER, Mrs. LINCOLN, and Mr. TALENT):

S. 382. A bill to amend title XVIII of the Social Security Act to provide for coverage of cardiovascular screening tests under the medicare program; to the Committee on Finance.

By Ms. STABENOW:

S. 383. A bill to amend the Solid Waste Disposal Act to prohibit the importation of Canadian municipal solid waste without State consent; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. LEVIN, Mr. DURBIN, and Mr. KENNEDY):

S. 384. A bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 55. A resolution authorizing expenditures by the Committee on Small Business and Entrepreneurship; to the Committee on Small Business and Entrepreneurship.

By Mr. NICKLES:

S. Res. 56. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 138

At the request of Mr. ROCKEFELLER, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 241, a bill to amend the Coastal Zone Management Act.

S. 251

At the request of Mr. LOTT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 265

At the request of Mrs. BOXER, the names of the Senator from Nevada (Mr. REID), the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 265, a bill to amend the Internal Revenue Code of 1986 to include sports utility vehicles in the limitation on the depreciation of certain luxury automobiles.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 304

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 304, a bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

S. 312

At the request of Mr. ROCKEFELLER, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. SARBANES), the Senator from California (Mrs. FEINSTEIN), the Senator from Washington (Ms. CANTWELL) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 312, a bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Florida (Mr. NELSON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. CON. RES. 4

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution welcoming the expression of support of 18 European nations for the enforcement of United Nations Security Council Resolution 1441.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Washington (Ms. CANTWELL), the Senator from Nebraska (Mr. HAGEL), the Senator from Washington (Mrs. MURRAY) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 364. A bill to prohibit the use of taxpayers funds to advocate a position that is inconsistent with existing Supreme Court precedent with respect to the Second Amendment; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, today I am introducing legislation to prohibit the use of taxpayer funds to advocate a position on the meaning of the Second Amendment that is inconsistent with existing Supreme Court precedent, as expressed in the Supreme Court case of United States v. Miller.

This legislation responds to the Bush Administration's filing of two unprecedented briefs to the United States Supreme Court, which argued that the

Second Amendment establishes an individual right to possess firearms. In taking this position, the Justice Department directly contradicted the well-established precedents of the Supreme Court, as expressed in the seminal case of United States v. Miller. In that 1939 case, the Supreme Court found that the Second Amendment did not establish a private right of individuals to possess firearms, but rather was intended to ensure the effectiveness of groups of citizen-soldiers known at the time as the Militia.

The Court in United States v. Miller explained the historical background to the Second Amendment and issued its ruling clearly and unambiguously. That ruling has never been reversed, and the Court has followed it in every subsequent related case. Similarly, the precedent in United States v. Miller has been followed by every Justice Department over the past several decades, including the Justice Departments of Presidents Ronald Reagan, Richard Nixon and George H.W. Bush.

The meaning of the Second Amendment should not be a partisan issue. In fact, it should not be a political issue. It is a legal and constitutional issue. And the law on this question has been clearly established by the highest court in the land in case after case for a period of many decades.

Unfortunately, instead of following the law, as Attorney General promised to do during his confirmation hearing, the Bush Administration and the Justice Department have used their authority to file briefs as a means of pursuing a partisan political agenda that flies in the face of established Supreme Court precedents. This is wrong. And, in my view, it is a misuse of taxpayer dollars.

Congress should not have to pass a law to ensure that the Executive Branch follows the Constitution, as clearly interpreted by the Supreme Court. Unfortunately, in light of the Bush's Administration's latest actions, Congress must step in. After all, Congress's ultimate power is the power of the purse. And we have a responsibility to use that power, when necessary, to ensure that the Executive Branch complies with constitutional law.

This responsibility flows from Congress's obligation to preserve, protect and defend the Constitution. It also flows from our obligation to ensure that taxpayer dollars are not misused. The American people should not be forced to pay taxes to support an unreasonable interpretation of the Second Amendment that is not only inconsistent with constitutional law, but that threatens to undermine legislation needed to reduce gun violence and to save lives.

In 1998, more than 30,000 Americans died from firearm-related deaths. That is almost as many as the number of Americans who died in the entire Korean War. In my view, there is much that Congress needs to do to reduce these deaths, including enacting reasonable gun safety legislation. Yet if the Bush Administration prevails in its effort to radically revise the Second Amendment, such laws could well be undermined. The end result would be more death and more families losing loved ones to the scourge of gun violence.

I have asked the Congressional Research Service whether there are any constitutional precedents that would bar the Congress from adopting this legislation, and the answer was ''no.'' I also would note that there is precedent for Congress prohibiting the use of taxpayer dollars to advocate positions with which Congress disagrees. For example, Congress for many years prohibited the Justice Department from using appropriated money to overturn certain rules under our antitrust laws. This responded to the filing of a brief in the Supreme Court by the Justice Department urging a revision of its precedents on resale price maintenance, and the legislation effectively blocked the Department from filing similar briefs.

In conclusion, we should not allow taxpayer dollars to be used to misrepresent the meaning of the Second Amendment on behalf of a partisan, political agenda. We should defend the Constitution against such ideological attacks. We should protect taxpayers from being forced to subsidize ideological gambits. And we should ensure that the Constitution is not misused to undermine gun safety legislation that could save the lives of many innocent Americans.

I hope my colleagues will support the bill, and I ask unanimous consent that the text of the legislation be printed in the RECORD, along with some related materials about this matter.

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

S. 364

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

SECTION 1. PROHIBITION ON THE USE OF FUNDS.

No funds appropriated to the Department of Justice or any other agency may be used to file any brief or to otherwise advocate before any judicial or administrative body any position with respect to the meaning of the Second Amendment to the Constitution that is inconsistent with existing Supreme Court precedent, as expressed in United States v. Miller (307 U.S. 174 (1939)).

[From the New York Times, May 12, 2002]

A FAULTY RETHINKING OF THE 2ND AMENDMENT

(By Jack Rakove)

STANFORD, CA.—The Bush administration has found a constitutional right it wants to expand. Attorney General John D. Ashcroft attracted only mild interest a year ago when he told the National Rifle Association, ''The text and original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms.''

Now, briefs just filed by Solicitor General Theodore Olson in two cases currently being appealed to the Supreme Court indicate that Mr. Ashcroft's personnel opinion has become that of the United States government. This posture represents an astonishing challenge to the long-settled doctrine that the right to bear arms protected by the Second Amendment is closely tied to membership in the militia. It is no secret that controversy about the meaning of the amendment has escalated in recent years. As evidence grew that a significant portion of the American electorate favored the regulation of firearms, the N.R.A. and its allies insisted ever more vehemently that the private right to possess arms is a constitutional absolute. This opinion, once seen as marginal, has become an article of faith on the right, and Republican politicians have in turn had to acknowledge its force.

The two cases under appeal do not offer an ideal test of the administration's new views. One concerns a man charged with violating a federal statute prohibiting individuals under domestic violence restraining orders from carrying guns; the other involves a man convicted of owning machine guns, which is illegal under federal law. In both cases, the defendants cite the Second Amendment as protecting their right to have the firearms. The unsavory facts may explain why Mr. Olson is using these cases as vehicles to announce the administration's constitutional position while urging the Supreme Court not to accept the appeals.

The court last examined this issue in 1939 in United States v. Miller. There it held that the Second Amendment was designed to ensure the effectiveness of the militia, not to guarantee a private right to possess firearms. The Miller case, though it did not fully explore the entire constitutional history, has guided the government's position on firearm issues for the past six decades.

If the court were to take up the two cases on appeal, it is far from clear that the Justice Department's new position would prevail. The plain text of the Second Amendment—''A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed''—does not support the unequivocal view that Mr. Ashcroft and Mr. Olson have put forth. The amendment refers to the right of the people, rather than the individual person of the Fifth Amendment. And the phrase ''keep and bear arms'' is, as most commentators note, a military reference.

Nor do the debates surrounding the adoption of the amendment support the idea that the framers were thinking of an individual right to own arms. The relevant proposals offered by the state ratification conventions of 1787–88 all dealt with the need to preserve the militia as an alternative to a standing army. The only recorded discussion of the amendment in the House of Representatives concerned whether religious dissenters should be compelled to serve in the militia. And in 1789, the Senate deleted one clause explicitly defining the militia as ''composed of the body of the people.'' In excising this phrase, the Senate gave ''militia'' a narrower meaning than it otherwise had, thereby making the Ashcroft interpretation harder to sustain.

Advocates of the individual right respond to these objections in three ways.

They argue, first that when Americans used the word militia, they ordinarily meant the entire adult male population capable of bearing arms. But Article I of the Constitution defines the militia as an institution under the joint regulation of the national and state governments, and the debates of 1787–89 do not demonstrate that the framers believed that the militia should forever by synonymous with the entire population.

A second argument revolves around the definition of ''the people.'' Those on the

N.R.A. side believe ''the people'' means ''all persons.'' But in Article I we also read that the people will elect the House of Representatives—and the determination of who can vote will be left to state law, in just the way that militia service would remain subject to Congressional and state regulation.

The third argument addresses the critical phrase deleted in the Senate. Rather than concede that the Senate knew what it was doing, these commentators contend that the deletion was more a matter of careless editing.

This argument is faulty because legal interpretation generally assumes that lawmakers act with clear purpose. More important, the Senate that made this critical deletion was dominated by Federalists who were skeptical of the milita's performance during the Revolutionary War and opposed to the idea that the future of American defense lay with the militia rather than a regular army. They had sound reasons not to commit the national government to supporting a mass militia, and thus to prefer a phrasing implying that the militia need not embrace the entire adult male population if Congress had good reason to require otherwise. The evidence of text and history makes it very hard to argue for an expansive individual right to keep arms.

There is one striking curiosity to the Bush administration's advancing its position at this time. Advocates of the individual-right interpretation typically argue that an armed populace is the best defense against the tyranny of our own government. And yet the Bush administration seems quite willing to compromise essential civil liberties in the name of security. It is sobering to think that the constitutional right the administration values so highly is the right to bear arms, that peculiar product of an obsolete debate over the danger of standing armies—and this at a time when our standing army is the most powerful the world has known.

[From the Washington Post, May 10, 2002]

GUNS AND JUSTICE

The U.S. Solicitor General has a duty to defend acts of Congress before the Supreme Court. This week, Solicitor General Ted Olson—and by extension his bosses, Attorney General John Ashcroft and President Bush—took a position regarding guns that will undermine that mission.

Historically, the Justice Department has adopted a narrow reading of the Constitution's Second Amendment, which states that ''a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.'' Along with nearly all courts in the past century, it has read that as protecting only the public's collective right to bear arms in the context of militia service. Now the administration has reversed this view. In a pair of appeals, Mr. Olson contends that ''the Second Amendment more broadly protects the rights of individuals, including persons who are not members of any militia . . . to possess and bear their own firearms.'' Mr. Ashcroft insists the department remains prepared to defend all federal gun laws. Having given away its strongest argument, however, it will be doing so with its hands tied behind its back.

Laws will now be defended not as presumptively valid but as narrow exceptions to a broad constitutional right—one subject, as Mr. Olson put it, only to ''reasonable restrictions designed to prevent possession by unfit persons or to restrict the possession of types of firearms that are particularly suited to criminal misuse.'' This may sound like a common-sense balancing act. But where exactly does the Second Amendment, if it guarantees individual rights, permit ''reasonable restrictions''? And where does its protection exempt firearms that might be well suited for crime?

Mr. Ashcroft has compared the gun ownership right with the First Amendment's protection of speech—which can be limited only in a fashion narrowly tailored to accomplish compelling state interests. If that's the model, most federal gun laws would sooner or later fall. After all, it would not be constitutional to subject someone to a background check before permitting him to worship or to make a political speech. If gun ownership is truly a parallel right, why would the Brady background check be constitutional?

The Justice Department traditionally errs on the other side—arguing for constitutional interpretations that increase congressional flexibility and law enforcement policy options. The great weight of judicial precedent holds that there is no fundamental individual right to own a gun. Staking out a contrary position may help ingratiate the Bush administration to the gun lobby. But it greatly disserves the interests of the United States.

[From the New York Times, May 14, 2002]

AN OMINOUS REVERSAL ON GUN RIGHTS

Using a footnote in a set of Supreme Court briefs, Attorney General John Ashcroft announced a radical shift last week in six decades of government policy toward the rights of Americans to own guns. Burying the change in fine print cannot disguise the ominous implications for law enforcement or Mr. Ashcroft's betrayal of his public duty.

The footnote declares that, contrary to longstanding and bipartisan interpretation of the Second Amendment, the Constitution ''broadly protects the rights of individuals'' to own firearms. This view and the accompanying legal standard Mr. Ashcroft has suggested—equating gun ownership with core free speech rights—could make it extremely difficult for the government to regulate firearms, as it has done for decades. That position comports with Mr. Ashcroft's long-held personal opinion, which he expressed a year ago in a letter to his close allies at the National Rifle Association. But it is a position at odds with both history and the Constitution's text. As the Supreme Court correctly concluded in a 1939 decision that remains the key legal precedent on the subject, the Second Amendment protects only those rights that have ''some reasonable relationship to the preservation of efficiency of a well-regulated militia.'' By not viewing the amendment as a basic, individual right, this decision left room for broad gun ownership regulation. The footnote is also at odds with Mr. Ashcroft's pledge at his confirmation hearing that his personal ideology would not drive Justice Department legal policies.

It is hard to take seriously Mr. Ashcroft's assertion that the Bush administration remains committed to the vigorous defense and enforcement of all federal gun laws. Mr. Ashcroft, after all, is an official whose devotion to the gun lobby extends to granting its request to immediately destroy records of gun purchases amassed in the process of conducting Brady law background checks even though they might be useful for tracking weapons purchases by suspected terrorists.

The immediate effect of the Bush Justice Department's expansive reading of the Second Amendment is to undermine law enforcement by calling into question valuable state and federal gun restrictions on the books, and by handing dangerous criminals a potent new weapon for challenging their convictions. What it all adds up to is a gift to pro-gun extremists, and a shabby deal for everyone else.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mrs. LINCOLN, and Mr. COCHRAN):

S. 365. A bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today with my colleague, the distinguished senior Senator from Idaho, Senator CRAIG, to introduce the Rural Four-Lane Highway Safety and Development Act of 2003. We are pleased to be joined by Senators LINCOLN and COCHRAN in sponsoring the bill.

The purpose of this bipartisan legislation is to ensure that States have the resources they need to upgrade major two-lane roads across the Nation to high-quality four-lane divided highways. The goals of this bill are to improve the safety of our most dangerous highways and to stimulate economic development in rural areas.

I think most Senators would agree that the Dwight D. Eisenhower National System of Interstate and Defense Highways is one of the transportation marvels of the 20th century. The system's 46,000 miles of divided highways interconnect virtually every major urban area in the Nation. The system represents one of the most efficient and safest highway systems in the world.

Unfortunately, when the Interstate System was planned, it left many rural communities and smaller urban areas without direct links to the high-quality transportation network that the interstate highways provide. Many of these smaller and rural communities continue to suffer economically because of the lack of high-quality four-lane highways.

To address this issue, in 1995 Congress developed the concept of a National Highway System as a way of extending the benefits of an efficient highway network to all areas of the country. Congress designated the National Highway System to help focus Federal resources on the Nation's most important roads.

Today there are about 160,000 miles on the National Highway System, including all of the interstate highways and all other routes that are important to the Nation's economy, defense, and general mobility. The NHS comprises only 4 percent of the Nation's roads, but carries more than 40 percent of all highway traffic, 75 percent of heavy truck traffic and 90 percent of tourist traffic.

The NHS reaches nearly every part of the Nation. According to the Federal Highway Administration, about 90 percent of America's population lives within 5 miles of an NHS route. All urban areas with a population of more than 50,000, and 93 percent with a population of between 5,000 and 50,000, are within 5 miles of the NHS. Counties with NHS highways have 99 percent of

all jobs, including 99 percent of all manufacturing jobs, 97 percent of mining jobs, and 93 percent of agricultural jobs.

The NHS is the critical transportation link for most of our Nation's rural areas. The Federal Highway Administration estimates that, of the 160,000 miles now on the National Highway System, fully 75 percent, or 119,000 miles, are in rural areas. Of the 1.2 trillion total vehicle miles traveled in 2000 on NHS roads, about 60 percent were in rural areas.

I hope all Senators will agree that improving highway safety should be our top priority. When it comes to highway safety, the fact is that travel on four-lane roads is safer than two-lane roads. This is especially true in rural areas. According to the Bureau of Transportation Statistics, in 1998 the rate of traffic fatalities on all rural roads was 2.39 per 100-million vehicle miles; however, the rate on rural interstate highways was half as high—only 1.23 per 100 million vehicle-miles.

The reason for the lower fatality rate on rural interstate highways should be obvious. When a road has only one lane in each direction, trucks and other slow-moving vehicles increase the hazard of passing. Vehicles turning on or off a two-lane road can also increase risk. A divided four-lane highway greatly reduces these perils.

Of the 119,000 miles of rural NHS roads, about 33,000 miles are interstates and another 28,000 miles have been upgraded to four or more lanes. The remaining 58,000 miles—more than half of this rural highway network—are still only two-lane roads with no central divider. These are the most dangerous roads on the National Highway System.

In my State of New Mexico, we have made some progress toward upgrading our rural two-lane highways to four lanes. In recent years, US550 from Bernalillo to Bloomfield, US285 from Interstate 40 to Carlsbad, and a key segment of US54 from El Paso to Alamogordo have been widened to four lanes. In addition, upgrading of US70 from Las Cruces to Clovis is nearly completed. But much more remains to be done.

New Mexico has 2,647 miles of rural roads in the NHS. Eight hundred and ninety-two of these NHS miles are interstates. Of the balance of New Mexico's NHS highways, 1,755 miles are in the rural parts of my State, especially Chaves, Colfax, Eddy, Lincoln, Guadalupe, Otero, Quay, San Juan, and Union Counties. And almost 70 percent—1,217 miles—of New Mexico's rural NHS highways remain only two-lane roads. These two-lane roads are major transportation routes with heavy truck and commercial traffic. In 2000, a total of 10.3 billion vehicle miles were traveled on New Mexico's NHS highways, and about one quarter, or 2.7 billion miles, were traveled on these rural NHS roads.

Unfortunately, there are only very limited funds available to upgrade the most important two-lane rural NHS roads to four-lane highways. According to a recent GAO study, over two-thirds of all Federal highway funding between 1992 and 2000 has gone either to roads in urban areas or to interstate highways. Consequently, there is a continuing shortfall in Federal highway funding needed to upgrade the most important rural two-lane roads. Our bill will help address the shortfall so that more rural segments of the NHS can be improved to four-lane divided highways.

As in many States, New Mexico's rural counties strongly believe their economic future depends on access to safe and efficient four-lane highways. Basic transportation infrastructure is one of the critical elements for companies choosing where to locate. Truck drivers and the traveling public prefer the safety and efficiency of a four-lane divided highway.

Thus one of the top priorities for rural cities and counties in my State is to complete the four-lane upgrade of such key routes as US54 from Tularosa to Nara Visa, US62/180 from Carlsbad to the Texas state line, US64/87 from Clayton to Raton, and US666 from north of Gallup to Shiprock. These two-lane rural routes in New Mexico not only bear some of the State's heaviest truck and automobile traffic, but also are some of the State's most dangerous roads. In fact, US666 is considered one of the most dangerous two-lane highways in the Nation.

New Mexico is not alone among western states in needing to upgrade two-lane roads on the National Highway System. For example, Texas has almost 3,500 miles of rural two-lane NHS roads. Montana has 2,469 miles, Kansas has 2,293, Nebraska 1,964, Wyoming 1,924, Minnesota 1,897, and Missouri 1,853 miles.

In the East, where States are smaller, many NHS routes remain only two lanes. In Vermont, 78 percent of rural NHS roads are only two lanes, in New Hampshire it's 84 percent and 99 percent in Maine.

I do believe it is time Congress took action to improve the safety of travelers on the highest priority rural two-lane roads. Last year, I secured nearly $1 million in Federal funding to begin the upgrade of US64/87 between Clayton and Raton, which is part of the Ports-to-Plains High Priority Corridor on the National Highway System.

In addition, last week Senator ROBERTS and I introduced S. 290, which designates U.S. Highway 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas, as the SPIRIT High Priority Corridor. Our bipartisan bill has four cosponsors. A high-priority corridor designation provides no additional Federal funding, but helps focus attention on the need to upgrade the nation's major two-lane routes.

The purpose of the bill we are introducing today, the Rural Four-Lane Highway Safety and Development Act of 2003, is to provide direct Federal funding to States to upgrade existing two-lane roads in rural areas to safe and efficient four-lane divided highways. The States would determine which two-lane roads they wanted to upgrade. To be eligible for funding, the highway must be on the National Highway System or a congressionally designated High Priority Corridor. Our bill gives funding priority to upgrading the most dangerous two-lane highways, routes most affected by increased traffic as a result of NAFTA, highways that have high levels of commercial traffic, and projects that will help stimulate regional economic growth. Total funding for six years is $1.8 billion from the highway trust fund.

My State bears a substantial burden in the maintenance and upgrading of its portion of critical national highways. New Mexico has 3.3 percent of the Nation's land area, but only 6 tenths of one percent of the population. We have 2.2 percent of all of the interstate highway miles and 1.7 percent of all other NHS miles. At the same time, as a border State, New Mexico is common route for trucks crossing the border with Mexico and heading to or coming from the east and west coasts. It is likely that the upgrading to four lanes of the most important NHS highways in New Mexico might not occur without the supplemental funding provided in my bill.

I continue to believe strongly in the important role of highway infrastructure to economic development. Even in this age of the so-called ''new'' economy and high-speed digital communications, roads continue to link our communities together and to carry the commercial goods and products our citizens need. Safe and efficient highways are especially important to citizens in the rural parts of our country.

I recognize that the funding level in this bill is inadequate to upgrade all of the remaining two-lane routes on the NHS in the next six years. Upgrading an existing two-lane road to a full four-lane divided highway can cost upward of one million dollars per mile.

Moreover, some of the existing two-lane roads probably don't have sufficient traffic to justify upgrading at this time. In addition, some two-lane NHS routes pass through scenic areas where it may not be appropriate to upgrade to four lanes. However, I do believe the funding in this bill will take us a long way toward ensuring the most critical projects are completed in the next six years.

This year Congress will take up the reauthorization of the comprehensive six-year transportation bill, TEA–21. We are introducing this bipartisan bill today to help ensure that the issue of the safety of rural two-lane NHS routes receives the attention it deserves as the debate on reauthorization begins. I look forward to working with the chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, as well as Senators BOND and

REID of the Transportation, Infrastructure and Nuclear Safety Subcommittee, to find a way to ensure additional federal resources are in place to hasten the work of upgrading rural two-lane NHS roads to safe, efficient four-lane divided highways.

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. 365

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Four-Lane Highway Safety and Development Act of 2003''.

SEC. 2. RURAL 4-LANE HIGHWAY DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. Rural 4-lane highway development program

''(a) DEFINITIONS.—In this section:

''(1) 2-LANE HIGHWAY.—The term '2-lane highway' means a highway that has not more than 1 lane of traffic in each direction.

''(2) 4-LANE HIGHWAY.—The term '4-lane highway' means a highway that has 2 lanes of traffic in each direction.

''(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and carry out a program to make allocations to States for projects, consisting of planning, design, environmental review, and construction, to expand eligible 2-lane highways in rural areas to 4-lane highways.

''(c) APPLICATIONS.—To be eligible to receive an allocation under this section, a State shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

''(d) ELIGIBLE HIGHWAYS.—The Secretary may make allocations under this section only for projects to expand 2-lane highways that are on—

''(1) the National Highway System; or

''(2) a high priority corridor identified under section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032).

''(e) PRIORITY IN SELECTION.—In making allocations under this section, the Secretary shall give priority to—

''(1) projects to improve highway safety on the most dangerous rural 2-lane highways on the National Highway System;

''(2) projects carried out on rural highways with respect to which the annual volume of commercial vehicle traffic—

''(A) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (107 Stat. 2057); or

''(B) is expected to increase after the date of enactment of this section;

''(3) projects carried out on rural highways with high levels of commercial truck traffic; and

''(4) projects on highway corridors that will help stimulate regional economic growth and development in rural areas.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $300,000,000 for each of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

''139. Rural 4-lane highway development program.''.

By Mr. JEFFORDS (for himself, Ms. COLLINS, Mr. LIBBERMAN, Ms. SNOWE, Mr. SCHUMER, Mr. BIDEN, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, Mr. SARBANES, and Mr. WYDEN):

S. 366. A bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, today I am pleased to introduce the Clean Power Act of 2003 along with 19 of my colleagues, Republicans and Democrats. That is a fifth of the Senate on record supporting a measure which dramatically reduces emissions of four pollutants coming from power plants—sulfur dioxide, nitrogen oxides, carbon dioxide and mercury.

These pollutants create or contribute to smog, soot, acid rain, mercury contamination and global warming. They cause death, disease, ecological degradation, birth defects, and increase the risk of abrupt and unwelcome climate changes.

The nation has made some impressive strides in reducing air pollution since 1990. But there is a lot of unfinished business, a fact confirmed every day by more and ever better science.

Power plants are still the nation's single largest source of air pollution, including greenhouse gases. They are responsible for 60 percent or more of national sulfur dioxide emissions, 25 percent of nitrogen oxides, 40 percent of carbon dioxide, and about 45 tons of mercury annually.

Fine particulate matter coming from power plants, mainly through SO_X and NO_X emissions, is causing or contributing to the premature deaths of approximately 30,000 people.

More than 130 million people are living in areas with unhealthy air. Ground-level ozone triggers over 6.2 million asthma attacks each summer in the eastern United States alone, and some studies show that it may actually cause asthma. Another 160,000 people are sent to emergency rooms due to smog-induced respiratory illness. Power plants are significant contributors to this air quality degradation, as well as causing major reductions in visibility in our national parks and wild places. The National Park Service posts air quality warning signs for hikers in the Great Smoky Mountains every other day on average during the high ozone season.

Acid rain continues to fall on the Northeast, and the Southeast, damaging sensitive ecosystems and acidifying lakes and streams. In my state of Vermont, the red spruce, the sugar maple, and other species are becoming more and more immune-compromised.

The Hubbard Brook Research Foundation says we must reduce sulfur dioxide emissions by 80 percent from current Clean Air Act requirements to begin biological recovery mid-century in the Northeastern U.S. That means bringing emissions way down now, not prolonging the wait for healthy trees and lakes.

Coal-fired power plants emit the bulk of the uncontrolled mercury emissions in the U.S. Mercury is a potent neurotoxic pollutant. It contaminates fish causing fish consumption warnings in 41 States. And mercury puts over 60,000 children at risk of negative developmental effects due to fetal exposure.

Despite our international commitment to reduce greenhouse gas emissions to 1990 levels through voluntary means, we have failed. In particular, power sector emissions of carbon dioxide, a major greenhouse gas, have increased by more than 25 percent since 1990. This failure increases the risks from global warming.

It is plainly obvious that we must make swift and major reductions in these pollutants for the sake of public health, the environment, and the world's climate. Without quick action, the nation's fleet of fossil power plants will continue to inefficiently belch out millions of tons of harmful pollutants.

The Clean Power Act of 2003 will mainly use the largely successful cap-and-trade system in the 1990 Clean Air Act Amendments to make quick and cost-effective reductions in these pollutants. At the same time, this bill does not abolish or eliminate any of the vital local and regional air quality protection programs in the Clean Air Act. Our bill reduces emissions of sulfur dioxide by 81 percent from 2000. Nitrogen oxides will be reduced by 71 percent from 2000. And carbon dioxide will be capped at 21 percent below 2000 levels. Mercury will be controlled to 90 percent below 1999 levels.

This bill has a hybrid allocation system for distributing the allowances for the three capped and tradable pollutants (NO_X, SO_X, CO_2). Most allocations, about ⅔, go to households and consumers. The rest go to renewable energy, energy efficiency, and other categories. This system rewards cleaner power producers and ensures that the public gets compensated for the polluters' use of the atmosphere.

Our bill is intended to save the lives that are now being lost prematurely to lung disease and other illnesses. We want to continue on the path set in 1990 of reducing acid rain.

We want certainty that mercury will no longer threaten unborn children and the future environment will be safer and cleaner for them when they are grown.

Certainty is a valuable commodity. Industry witnesses have testified that certainty is critical to their investment strategies. Our bill provides a

clear signal on exactly what is expected of pollution sources and when.

I want certainty that the promise of the Clean Air Act will be delivered to all Americans.

At the Environment and Public Works Committee, we have heard many times that technologies are readily available to meet the challenges in our bill. And that these challenges can be met in a cost-effective manner that allows our economy to prosper and improve public health.

We can't afford to slow down progress on achieving better air quality and we must start to make real progress in reducing greenhouse gas emissions. The voluntary approach has failed for 12 years now and we must do better.

As Senators may know, when I was Chairman of the Senate Environment and Public Works Committee, we approved a bill nearly identical to the bill that we are introducing today. The only significant difference is that the deadline for compliance with all the pollution caps except mercury have been moved later by one year. Mercury still follows the schedule in the consent decree which requires compliance by 2008.

I look forward to entering into serious discussions with the Administration on signing into law good, comprehensive four-pollutant legislation. However, their actions so far on air quality matters have not fostered an atmosphere of trust and cooperation.

I ask unanimous consent that a brief summary of the legislation and the text of the bill be printed in the RECORD.

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

S. 366

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 Power Act of 2003''.

SEC. 2. ELECTRIC ENERGY GENERATION EMISSION REDUCTIONS.

(a) IN GENERAL.—The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''TITLE VII—ELECTRIC ENERGY GENERATION EMISSION REDUCTIONS

''Sec. 701. Findings.
''Sec. 702. Purposes.
''Sec. 703. Definitions.
''Sec. 704. Emission limitations.
''Sec. 705. Emission allowances.
''Sec. 706. Permitting and trading of emission allowances.
''Sec. 707. Emission allowance allocation.
''Sec. 708. Mercury emission limitations.
''Sec. 709. Other hazardous air pollutants.
''Sec. 710. Effect of failure to promulgate regulations.
''Sec. 711. Prohibitions.
''Sec. 712. Modernization of electricity generating facilities.
''Sec. 713. Relationship to other law.

''SEC. 701. FINDINGS.

''Congress finds that—

''(1) public health and the environment continue to suffer as a result of pollution emitted by powerplants across the United States, despite the success of Public Law 101–549 (commonly known as the 'Clean Air Act Amendments of 1990') (42 U.S.C. 7401 et seq.) in reducing emissions;

''(2) according to the most reliable scientific knowledge, acid rain precursors must be significantly reduced for the ecosystems of the Northeast and Southeast to recover from the ecological harm caused by acid deposition;

''(3) because lakes and sediments across the United States are being contaminated by mercury emitted by powerplants, there is an increasing risk of mercury poisoning of aquatic habitats and fish-consuming human populations;

''(4)(A) electricity generation accounts for approximately 40 percent of the total emissions in the United States of carbon dioxide, a major greenhouse gas causing global warming; and

''(B) the quantity of carbon dioxide in the atmosphere is growing without constraint and well beyond the international commitments of the United States;

''(5) the cumulative impact of powerplant emissions on public and environmental health must be addressed swiftly by reducing those harmful emissions to levels that are less threatening; and

''(6)(A) the atmosphere is a public resource; and

''(B) emission allowances, representing permission to use that resource for disposal of air pollution from electricity generation, should be allocated to promote public purposes, including—

''(i) protecting electricity consumers from adverse economic impacts;

''(ii) providing transition assistance to adversely affected employees, communities, and industries; and

''(iii) promoting clean energy resources and energy efficiency.

''SEC. 702. PURPOSES.

''The purposes of this title are—

''(1) to alleviate the environmental and public health damage caused by emissions of sulfur dioxide, nitrogen oxides, carbon dioxide, and mercury resulting from the combustion of fossil fuels in the generation of electric and thermal energy;

''(2) to reduce by 2009 the annual national emissions from electricity generating facilities to not more than—

''(A) 2,250,000 tons of sulfur dioxide;

''(B) 1,510,000 tons of nitrogen oxides; and

''(C) 2,050,000,000 tons of carbon dioxide;

''(3) to reduce by 2008 the annual national emissions of mercury from electricity generating facilities to not more than 5 tons;

''(4) to effectuate the reductions described in paragraphs (2) and (3) by—

''(A) requiring electricity generating facilities to comply with specified emission limitations by specified deadlines; and

''(B) allowing electricity generating facilities to meet the emission limitations (other than the emission limitation for mercury) through an alternative method of compliance consisting of an emission allowance and transfer system; and

''(5) to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as long-range strategies, consistent with this title, for reducing air pollution and other adverse impacts of energy generation and use.

''SEC. 703. DEFINITIONS.

''In this title:

''(1) COVERED POLLUTANT.—The term 'covered pollutant' means—

''(A) sulfur dioxide;

''(B) any nitrogen oxide;

''(C) carbon dioxide; and

''(D) mercury.

''(2) ELECTRICITY GENERATING FACILITY.—The term 'electricity generating facility' means an electric or thermal electricity generating unit, a combination of such units, or a combination of 1 or more such units and 1 or more combustion devices, that—

''(A) has a nameplate capacity of 15 megawatts or more (or the equivalent in thermal energy generation, determined in accordance with a methodology developed by the Administrator);

''(B) generates electric energy, for sale, through combustion of fossil fuel; and

''(C) emits a covered pollutant into the atmosphere.

''(3) ELECTRICITY INTENSIVE PRODUCT.—The term 'electricity intensive product' means a product with respect to which the cost of electricity consumed in the production of the product represents more than 5 percent of the value of the product.

''(4) EMISSION ALLOWANCE.—The term 'emission allowance' means a limited authorization to emit in accordance with this title—

''(A) 1 ton of sulfur dioxide;

''(B) 1 ton of nitrogen oxides; or

''(C) 1 ton of carbon dioxide.

''(5) ENERGY EFFICIENCY PROJECT.—The term 'energy efficiency project' means any specific action (other than ownership or operation of an energy efficient building) commenced after the date of enactment of this title—

''(A) at a facility (other than an electricity generating facility), that verifiably reduces the annual electricity or natural gas consumption per unit output of the facility, as compared with the annual electricity or natural gas consumption per unit output that would be expected in the absence of an allocation of emission allowances (as determined by the Administrator); or

''(B) by an entity that is primarily engaged in the transmission and distribution of electricity, that significantly improves the efficiency of that type of entity, as compared with standards for efficiency developed by the Administrator, in consultation with the Secretary of Energy, after the date of enactment of this title.

''(6) ENERGY EFFICIENT BUILDING.—The term 'energy efficient building' means a residential building or commercial building completed after the date of enactment of this title for which the projected lifetime consumption of electricity or natural gas for heating, cooling, and ventilation is at least 30 percent less than the lifetime consumption of a typical new residential building or commercial building, as determined by the Administrator (in consultation with the Secretary of Energy)—

''(A) on a State or regional basis; and

''(B) taking into consideration—

''(i) applicable building codes; and

''(ii) consumption levels achieved in practice by new residential buildings or commercial buildings in the absence of an allocation of emission allowances.

''(7) ENERGY EFFICIENT PRODUCT.—The term 'energy efficient product' means a product manufactured after the date of enactment of this title that has an expected lifetime electricity or natural gas consumption that—

''(A) is less than the average lifetime electricity or natural gas consumption for that type of product; and

''(B) does not exceed the lesser of—

''(i) the maximum energy consumption that qualifies for the applicable Energy Star label for that type of product; or

''(ii) the average energy consumption of the most efficient 25 percent of that type of product manufactured in the same year.

''(8) LIFETIME.—The term 'lifetime' means—

''(A) in the case of a residential building that is an energy efficient building, 30 years;

''(B) in the case of a commercial building that is an energy efficient building, 15 years; and

''(C) in the case of an energy efficient product, a period determined by the Administrator to be the average life of that type of energy efficient product.

''(9) MERCURY.—The term 'mercury' includes any mercury compound.

''(10) NEW CLEAN FOSSIL FUEL-FIRED ELECTRICITY GENERATING UNIT.—The term 'new clean fossil fuel-fired electricity generating unit' means a unit that—

''(A) has been in operation for 10 years or less; and

''(B) is—

''(i) a natural gas fired generator that—

''(I) has an energy conversion efficiency of at least 55 percent; and

''(II) uses best available control technology (as defined in section 169);

''(ii) a generator that—

''(I) uses integrated gasification combined cycle technology;

''(II) uses best available control technology (as defined in section 169); and

''(III) has an energy conversion efficiency of at least 45 percent; or

''(iii) a fuel cell operating on fuel derived from a nonrenewable source of energy.

''(11) NONWESTERN REGION.—The term 'nonwestern region' means the area of the States that is not included in the western region.

''(12) RENEWABLE ELECTRICITY GENERATING UNIT.—The term 'renewable electricity generating unit' means a unit that—

''(A) has been in operation for 10 years or less; and

''(B) generates electric energy by means of—

''(i) wind;

''(ii) biomass;

''(iii) landfill gas;

''(iv) a geothermal, solar thermal, or photovoltaic source; or

''(v) a fuel cell operating on fuel derived from a renewable source of energy.

''(13) SMALL ELECTRICITY GENERATING FACILITY.—The term 'small electricity generating facility' means an electric or thermal electricity generating unit, or combination of units, that—

''(A) has a nameplate capacity of less than 15 megawatts (or the equivalent in thermal energy generation, determined in accordance with a methodology developed by the Administrator);

''(B) generates electric energy, for sale, through combustion of fossil fuel; and

''(C) emits a covered pollutant into the atmosphere.

''(14) WESTERN REGION.—The term 'western region' means the area comprising the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

''SEC. 704. EMISSION LIMITATIONS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Administrator shall promulgate regulations to ensure that, during 2009 and each year thereafter, the total annual emissions of covered pollutants from all electricity generating facilities located in all States does not exceed—

''(1) in the case of sulfur dioxide—

''(A) 275,000 tons in the western region; or

''(B) 1,975,000 tons in the nonwestern region;

''(2) in the case of nitrogen oxides, 1,510,000 tons;

''(3) in the case of carbon dioxide, 2,050,000,000 tons; or

''(4) in the case of mercury, 5 tons.

''(b) EXCESS EMISSIONS BASED ON UNUSED ALLOWANCES.—The regulations promulgated under subsection (a) shall authorize emissions of covered pollutants in excess of the national emission limitations established under that subsection for a year to the extent that the number of tons of the excess emissions is less than or equal to the number of emission allowances that are—

''(1) used in the year; but

''(2) allocated for any previous year under section 707.

''(c) REDUCTIONS.—For 2009 and each year thereafter, the quantity of emissions specified for each covered pollutant in subsection (a) shall be reduced by the sum of—

''(1) the number of tons of the covered pollutant that were emitted by small electricity generating facilities in the second preceding year; and

''(2) any number of tons of reductions in emissions of the covered pollutant required under section 705(h).

''SEC. 705. EMISSION ALLOWANCES.

''(a) CREATION AND ALLOCATION.—

''(1) IN GENERAL.—For 2009 and each year thereafter, subject to paragraph (2), there are created, and the Administrator shall allocate in accordance with section 707, emission allowances as follows:

''(A) In the case of sulfur dioxide—

''(i) 275,000 emission allowances for each year for use in the western region; and

''(ii) 1,975,000 emission allowances for each year for use in the nonwestern region.

''(B) In the case of nitrogen oxides, 1,510,000 emission allowances for each year.

''(C) In the case of carbon dioxide, 2,050,000,000 emission allowances for each year.

''(2) REDUCTIONS.—For 2009 and each year thereafter, the number of emission allowances specified for each covered pollutant in paragraph (1) shall be reduced by a number equal to the sum of—

''(A) the number of tons of the covered pollutant that were emitted by small electricity generating facilities in the second preceding year; and

''(B) any number of tons of reductions in emissions of the covered pollutant required under subsection (h).

''(b) NATURE OF EMISSION ALLOWANCES.—

''(1) NOT A PROPERTY RIGHT.—An emission allowance allocated by the Administrator under subsection (a) is not a property right.

''(2) NO LIMIT ON AUTHORITY TO TERMINATE OR LIMIT.—Nothing in this title or any other provision of law limits the authority of the United States to terminate or limit an emission allowance.

''(3) TRACKING AND TRANSFER OF EMISSION ALLOWANCES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations to establish an emission allowance tracking and transfer system for emission allowances of sulfur dioxide, nitrogen oxides, and carbon dioxide.

''(B) REQUIREMENTS.—The emission allowance tracking and transfer system established under subparagraph (A) shall—

''(i) incorporate the requirements of subsections (b) and (d) of section 412 (except that written certification by the transferee shall not be necessary to effect a transfer); and

''(ii) permit any entity—

''(I) to buy, sell, or hold an emission allowance; and

''(II) to permanently retire an unused emission allowance.

''(C) PROCEEDS OF TRANSFERS.—Proceeds from the transfer of emission allowances by any person to which the emission allowances have been allocated—

''(i) shall not constitute funds of the United States; and

''(ii) shall not be available to meet any obligations of the United States.

''(c) IDENTIFICATION AND USE.—

''(1) IN GENERAL.—Each emission allowance allocated by the Administrator shall bear a unique serial number, including—

''(A) an identifier of the covered pollutant to which the emission allowance pertains; and

''(B) the first year for which the allowance may be used.

''(2) SULFUR DIOXIDE EMISSION ALLOWANCES.—In the case of sulfur dioxide emission allowances, the Administrator shall ensure that the emission allowances allocated to electricity generating facilities in the western region are distinguishable from emission allowances allocated to electricity generating facilities in the nonwestern region.

''(3) YEAR OF USE.—Each emission allowance may be used in the year for which the emission allowance is allocated or in any subsequent year.

''(d) ANNUAL SUBMISSION OF EMISSION ALLOWANCES.—

''(1) IN GENERAL.—On or before April 1, 2010, and April 1 of each year thereafter, the owner or operator of each electricity generating facility shall submit to the Administrator 1 emission allowance for the applicable covered pollutant (other than mercury) for each ton of sulfur dioxide, nitrogen oxides, or carbon dioxide emitted by the electricity generating facility during the previous calendar year.

''(2) SPECIAL RULE FOR OZONE EXCEEDANCES.—

''(A) IDENTIFICATION OF FACILITIES CONTRIBUTING TO NONATTAINMENT.—Not later than December 31, 2008, and the end of each 3-year period thereafter, each State, consistent with the obligations of the State under section 110(a)(2)(D), shall identify the electricity generating facilities in the State and in other States that are significantly contributing (as determined based on guidance issued by the Administrator) to nonattainment of the national ambient air quality standard for ozone in the State.

''(B) SUBMISSION OF ADDITIONAL ALLOWANCES.—In 2009 and each year thereafter, on petition from a State or a person demonstrating that the control measures in effect at an electricity generating facility that is identified under subparagraph (A) as significantly contributing to nonattainment of the national ambient air quality standard for ozone in a State during the previous year are inadequate to prevent the significant contribution described in subparagraph (A), the Administrator, if the Administrator determines that the electricity generating facility is inadequately controlled for nitrogen oxides, may require that the electricity generating facility submit 3 nitrogen oxide emission allowances for each ton of nitrogen oxides emitted by the electricity generating facility during any period of an exceedance of the national ambient air quality standard for ozone in the State during the previous year.

''(3) REGIONAL LIMITATIONS FOR SULFUR DIOXIDE.—The Administrator shall not allow—

''(A) the use of sulfur dioxide emission allowances allocated for the western region to meet the obligations under this subsection of electricity generating facilities in the nonwestern region; or

''(B) the use of sulfur dioxide emission allowances allocated for the nonwestern region to meet the obligations under this subsection of electricity generating facilities in the western region.

''(e) EMISSION VERIFICATION, MONITORING, AND RECORDKEEPING.—

''(1) IN GENERAL.—The Administrator shall ensure that Federal regulations, in combination with any applicable State regulations, are adequate to verify, monitor, and document emissions of covered pollutants from electricity generating facilities.

''(2) INVENTORY OF EMISSIONS FROM SMALL ELECTRICITY GENERATING FACILITIES.—On or before January 1, 2005, the Administrator, in cooperation with State agencies, shall complete, and on an annual basis update, a comprehensive inventory of emissions of sulfur dioxide, nitrogen oxides, carbon dioxide, and particulate matter from small electricity generating facilities.

''(3) MONITORING INFORMATION.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Administrator shall promulgate regulations to require each electricity generating facility to submit to the Administrator—

''(i) not later than April 1 of each year, verifiable information on covered pollutants emitted by the electricity generating facility in the previous year, expressed in—

''(I) tons of covered pollutants; and

''(II) tons of covered pollutants per megawatt hour of energy (or the equivalent thermal energy) generated; and

''(ii) as part of the first submission under clause (i), verifiable information on covered pollutants emitted by the electricity generating facility in 2000, 2001, and 2002, if the electricity generating facility was required to report that information in those years.

''(B) SOURCE OF INFORMATION.—Information submitted under subparagraph (A) shall be obtained using a continuous emission monitoring system (as defined in section 402).

''(C) AVAILABILITY TO THE PUBLIC.—The information described in subparagraph (A) shall be made available to the public—

''(i) in the case of the first year in which the information is required to be submitted under that subparagraph, not later than 18 months after the date of enactment of this title; and

''(ii) in the case of each year thereafter, not later than April 1 of the year.

''(4) AMBIENT AIR QUALITY MONITORING FOR SULFUR DIOXIDE AND HAZARDOUS AIR POLLUTANTS.—

''(A) IN GENERAL.—Beginning January 1, 2005, each coal-fired electricity generating facility with an aggregate generating capacity of 50 megawatts or more shall, in accordance with guidelines issued by the Administrator, commence ambient air quality monitoring within a 30-mile radius of the coal-fired electricity generating facility for the purpose of measuring maximum concentrations of sulfur dioxide and hazardous air pollutants emitted by the coal-fired electricity generating facility.

''(B) LOCATION OF MONITORING POINTS.—Monitoring under subparagraph (A) shall include monitoring at not fewer than 2 points—

''(i) that are at ground level and within 3 miles of the coal-fired electricity generating facility;

''(ii) at which the concentration of pollutants being monitored is expected to be the greatest; and

''(iii) at which the monitoring shall be the most frequent.

''(C) FREQUENCY OF MONITORING OF SULFUR DIOXIDE.—Monitoring of sulfur dioxide under subparagraph (A) shall be carried out on a continuous basis and averaged over 5-minute periods.

''(D) AVAILABILITY TO THE PUBLIC.—The results of the monitoring under subparagraph (A) shall be made available to the public.

''(f) EXCESS EMISSION PENALTY.—

''(1) IN GENERAL.—Subject to paragraph (2), section 411 shall be applicable to an owner or operator of an electricity generating facility.

''(2) CALCULATION OF PENALTY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the penalty for failure to submit emission allowances for covered pollutants as required under subsection (d) shall be equal to 3 times the product obtained by multiplying—

''(i) as applicable—

''(I) the number of tons emitted in excess of the emission limitation requirement applicable to the electricity generating facility; or

''(II) the number of emission allowances that the owner or operator failed to submit; and

''(ii) the average annual market price of emission allowances (as determined by the Administrator).

''(B) MERCURY.—In the case of mercury, the penalty shall be equal to 3 times the product obtained by multiplying—

''(i) the number of grams emitted in excess of the emission limitation requirement for mercury applicable to the electricity generating facility; and

''(ii) the average cost of mercury controls at electricity generating units that have a nameplate capacity of 15 megawatts or more in all States (as determined by the Administrator).

''(g) SIGNIFICANT ADVERSE LOCAL IMPACTS.—

''(1) IN GENERAL.—If the Administrator determines that emissions of an electricity generating facility may reasonably be anticipated to cause or contribute to a significant adverse impact on an area (including endangerment of public health, contribution to acid deposition in a sensitive receptor area, and other degradation of the environment), the Administrator shall limit the emissions of the electricity generating facility as necessary to avoid that impact.

''(2) VIOLATION.—Notwithstanding the availability of emission allowances, it shall be a violation of this Act for any electricity generating facility to exceed any limitation on emissions established under paragraph (1).

''(h) ADDITIONAL REDUCTIONS.—

''(1) PROTECTION OF PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT.—If the Administrator determines that the emission levels necessary to achieve the national emission limitations established under section 704 are not reasonably anticipated to protect public health or welfare or the environment (including protection of children, pregnant women, minority or low-income communities, and other sensitive populations), the Administrator may require reductions in emissions from electricity generating facilities in addition to the reductions required under the other provisions of this title.

''(2) EMISSION ALLOWANCE TRADING.—

''(A) STUDIES.—

''(i) IN GENERAL.—In 2011 and at the end of each 3-year period thereafter, the Administrator shall complete a study of the impacts of the emission allowance trading authorized under this title.

''(ii) REQUIRED ASSESSMENT.—The study shall include an assessment of ambient air quality in areas surrounding electricity generating facilities that participate in emission allowance trading, including a comparison between—

''(I) the ambient air quality in those areas; and

''(II) the national average ambient air quality.

''(B) LIMITATION ON EMISSIONS.—If the Administrator determines, based on the results of a study under subparagraph (A), that adverse local impacts result from emission allowance trading, the Administrator may require reductions in emissions from electricity generating facilities in addition to the reductions required under the other provisions of this title.

''(i) USE OF CERTAIN OTHER EMISSION ALLOWANCES.—

''(1) IN GENERAL.—Subject to paragraph (2), emission allowances or other emission trading instruments created under title I or IV for sulfur dioxide or nitrogen oxides shall not be valid for submission under subsection (d).

''(2) EMISSION ALLOWANCES PLACED IN RESERVE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an emission allowance described in paragraph (1) that was placed in reserve under section 404(a)(2) or 405 or through regulations implementing controls on nitrogen oxides, because an affected unit emitted fewer tons of sulfur dioxide or nitrogen oxides than were permitted under an emission limitation imposed under title I or IV before the date of enactment of this title, shall be considered to be equivalent to ¼ of an emission allowance created by subsection (a) for sulfur dioxide or nitrogen oxides, respectively.

''(B) EMISSION ALLOWANCES RESULTING FROM ACHIEVEMENT OF NEW SOURCE PERFORMANCE STANDARDS.—If an emission allowance described in subparagraph (A) was created and placed in reserve during the period of 2001 through 2008 by the owner or operator of an electricity generating facility through the application of pollution control technology that resulted in the achievement and maintenance by the electricity generating facility of the applicable standards of performance required of new sources under section 111, the emission allowance shall be valid for submission under subsection (d).

''SEC. 706. PERMITTING AND TRADING OF EMISSION ALLOWANCES.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations to establish a permitting and emission allowance trading compliance program to implement the limitations on emissions of covered pollutants from electricity generating facilities established under section 704.

''(b) EMISSION ALLOWANCE TRADING WITH FACILITIES OTHER THAN ELECTRICITY GENERATING FACILITIES.—

''(1) IN GENERAL.—Subject to paragraph (2) and section 705(i), the regulations promulgated to establish the program under subsection (a) shall prohibit use of emission allowances generated from other emission control programs for the purpose of demonstrating compliance with the limitations on emissions of covered pollutants from electricity generating facilities established under section 704.

''(2) EXCEPTION FOR CERTAIN CARBON DIOXIDE EMISSION CONTROL PROGRAMS.—The prohibition described in paragraph (1) shall not apply in the case of carbon dioxide emission allowances generated from an emission control program that limits total carbon dioxide emissions from the entirety of any industrial sector.

''(c) METHODOLOGY.—The program established under subsection (a) shall clearly identify the methodology for the allocation of emission allowances, including standards for measuring annual electricity generation and energy efficiency as the standards relate to emissions.

''SEC. 707. EMISSION ALLOWANCE ALLOCATION.

''(a) ALLOCATION TO ELECTRICITY CONSUMERS.—

''(1) IN GENERAL.—For 2009 and each year thereafter, after making allocations of emission allowances under subsections (b) through (f), the Administrator shall allocate the remaining emission allowances created

by section 705(a) for the year for each covered pollutant other than mercury to households served by electricity.

''(2) ALLOCATION AMONG HOUSEHOLDS.—The allocation to each household shall reflect—

''(A) the number of persons residing in the household; and

''(B) the ratio that—

''(i) the quantity of the residential electricity consumption of the State in which the household is located; bears to

''(ii) the quantity of the residential electricity consumption of all States.

''(3) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations making appropriate arrangements for the allocation of emission allowances to households under this subsection, including as necessary the appointment of 1 or more trustees—

''(A) to receive the emission allowances for the benefit of the households;

''(B) to obtain fair market value for the emission allowances; and

''(C) to distribute the proceeds to the beneficiaries.

''(b) ALLOCATION FOR TRANSITION ASSISTANCE.—

''(1) IN GENERAL.—For 2009 and each year thereafter through 2018, the Administrator shall allocate the percentage specified in paragraph (2) of the emission allowances created by section 705(a) for the year for each covered pollutant other than mercury in the following manner:

''(A) 80 percent shall be allocated to provide transition assistance to—

''(i) dislocated workers (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) whose employment has been terminated or who have been laid off as a result of the emission reductions required by this title; and

''(ii) communities that have experienced disproportionate adverse economic impacts as a result of the emission reductions required by this title.

''(B) 20 percent shall be allocated to producers of electricity intensive products in a number equal to the product obtained by multiplying—

''(i) the ratio that—

''(I) the quantity of each electricity intensive product produced by each producer in the previous year; bears to

''(II) the quantity of the electricity intensive product produced by all producers in the previous year;

''(ii) the average quantity of electricity used in producing the electricity intensive product by producers that use the most energy efficient process for producing the electricity intensive product; and

''(iii) with respect to the previous year, the national average quantity (expressed in tons) of emissions of each such pollutant per megawatt hour of electricity generated by electricity generating facilities in all States.

''(2) SPECIFIED PERCENTAGES.—The percentages referred to in paragraph (1) are—

''(A) in the case of 2009, 6 percent;

''(B) in the case of 2010, 5.5 percent;

''(C) in the case of 2011, 5 percent;

''(D) in the case of 2012, 4.5 percent;

''(E) in the case of 2013, 4 percent;

''(F) in the case of 2014, 3.5 percent;

''(G) in the case of 2015, 3 percent;

''(H) in the case of 2016, 2.5 percent;

''(I) in the case of 2017, 2 percent; and

''(J) in the case of 2018, 1.5 percent.

''(3) REGULATIONS FOR ALLOCATION FOR TRANSITION ASSISTANCE TO DISLOCATED WORKERS AND COMMUNITIES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations making appropriate arrangements for the distribution of emission allowances under paragraph (1)(A), including as necessary the appointment of 1 or more trustees—

''(i) to receive the emission allowances allocated under paragraph (1)(A) for the benefit of the dislocated workers and communities;

''(ii) to obtain fair market value for the emission allowances; and

''(iii) to apply the proceeds to providing transition assistance to the dislocated workers and communities.

''(B) FORM OF TRANSITION ASSISTANCE.—Transition assistance under paragraph (1)(A) may take the form of—

''(i) grants to employers, employer associations, and representatives of employees—

''(I) to provide training, adjustment assistance, and employment services to dislocated workers; and

''(II) to make income-maintenance and needs-related payments to dislocated workers; and

''(ii) grants to States and local governments to assist communities in attracting new employers or providing essential local government services.

''(c) ALLOCATION TO RENEWABLE ELECTRICITY GENERATING UNITS, EFFICIENCY PROJECTS, AND CLEANER ENERGY SOURCES.—For 2009 and each year thereafter, the Administrator shall allocate not more than 20 percent of the emission allowances created by section 705(a) for the year for each covered pollutant other than mercury—

''(1) to owners and operators of renewable electricity generating units, in a number equal to the product obtained by multiplying—

''(A) the number of megawatt hours of electricity generated in the previous year by each renewable electricity generating unit; and

''(B) with respect to the previous year, the national average quantity (expressed in tons) of emissions of each such pollutant per megawatt hour of electricity generated by electricity generating facilities in all States;

''(2) to owners and operators of energy efficient buildings, producers of energy efficient products, and entities that carry out energy efficient projects, in a number equal to the product obtained by multiplying—

''(A) the number of megawatt hours of electricity or cubic feet of natural gas saved in the previous year as a result of each energy efficient building, energy efficient product, or energy efficiency project; and

''(B) with respect to the previous year, the national average quantity (expressed in tons) of emissions of each such pollutant per, as appropriate—

''(i) megawatt hour of electricity generated by electricity generating facilities in all States; or

''(ii) cubic foot of natural gas burned for a purpose other than generation of electricity in all States;

''(3) to owners and operators of new clean fossil fuel-fired electricity generating units, in a number equal to the product obtained by multiplying—

''(A) the number of megawatt hours of electricity generated in the previous year by each new clean fossil fuel-fired electricity generating unit; and

''(B) with respect to the previous year, ½ of the national average quantity (expressed in tons) of emissions of each such pollutant per megawatt hour of electricity generated by electricity generating facilities in all States; and

''(4) to owners and operators of combined heat and power electricity generating facilities, in a number equal to the product obtained by multiplying—

''(A) the number of British thermal units of thermal energy produced and put to productive use in the previous year by each combined heat and power electricity generating facility; and

''(B) with respect to the previous year, the national average quantity (expressed in tons) of emissions of each such pollutant per British thermal unit of thermal energy generated by electricity generating facilities in all States.

''(d) TRANSITION ASSISTANCE TO ELECTRICITY GENERATING FACILITIES.—

''(1) IN GENERAL.—For 2009 and each year thereafter through 2018, the Administrator shall allocate the percentage specified in paragraph (2) of the emission allowances created by section 705(a) for the year for each covered pollutant other than mercury to the owners or operators of electricity generating facilities in the ratio that—

''(A) the quantity of electricity generated by each electricity generating facility in 2001; bears to

''(B) the quantity of electricity generated by all electricity generating facilities in 2001.

''(2) SPECIFIED PERCENTAGES.—The percentages referred to in paragraph (1) are—

''(A) in the case of 2009, 10 percent;

''(B) in the case of 2010, 9 percent;

''(C) in the case of 2011, 8 percent;

''(D) in the case of 2012, 7 percent;

''(E) in the case of 2013, 6 percent;

''(F) in the case of 2014, 5 percent;

''(G) in the case of 2015, 4 percent;

''(H) in the case of 2016, 3 percent;

''(I) in the case of 2017, 2 percent; and

''(J) in the case of 2018, 1 percent.

''(e) ALLOCATION TO ENCOURAGE BIOLOGICAL CARBON SEQUESTRATION.—

''(1) IN GENERAL.—For 2009 and each year thereafter, the Administrator shall allocate, on a competitive basis and in accordance with paragraphs (2) and (3), not more than 0.075 percent of the carbon dioxide emission allowances created by section 705(a) for the year for the purposes of—

''(A) carrying out projects to reduce net carbon dioxide emissions through biological carbon dioxide sequestration in the United States that—

''(i) result in benefits to watersheds and fish and wildlife habitats; and

''(ii) are conducted in accordance with project reporting, monitoring, and verification guidelines based on—

''(I) measurement of increases in carbon storage in excess of the carbon storage that would have occurred in the absence of such a project;

''(II) comprehensive carbon accounting that—

''(aa) reflects net increases in carbon reservoirs; and

''(bb) takes into account any carbon emissions resulting from disturbance of carbon reservoirs in existence as of the date of commencement of the project;

''(III) adjustments to account for—

''(aa) emissions of carbon that may result at other locations as a result of the impact of the project on timber supplies; or

''(bb) potential displacement of carbon emissions to other land owned by the entity that carries out the project; and

''(IV) adjustments to reflect the expected carbon storage over various time periods, taking into account the likely duration of the storage of the carbon stored in a carbon reservoir; and

''(B) conducting accurate inventories of carbon sinks.

''(2) CARBON INVENTORY.—The Administrator, in consultation with the Secretary of Agriculture, shall allocate not more than ⅓ of the emission allowances described in paragraph (1) to not more than 5 State or multistate land or forest management agencies or nonprofit entities that—

''(A) have a primary goal of land conservation; and

''(B) submit to the Administrator proposals for projects—

''(i) to demonstrate and assess the potential for the development and use of carbon inventorying and accounting systems;

''(ii) to improve the standards relating to, and the identification of, incremental carbon sequestration in forests, agricultural soil, grassland, or rangeland; or

''(iii) to assist in development of a national biological carbon storage baseline or inventory.

''(3) REVOLVING LOAN PROGRAM.—The Administrator shall allocate not more than ⅔ of the emission allowances described in paragraph (1) to States, based on proposals submitted by States to conduct programs under which each State shall—

''(A) use the value of the emission allowances to establish a State revolving loan fund to provide loans to owners of nonindustrial private forest land in the State to carry out forest and forest soil carbon sequestration activities that will achieve the purposes specified in paragraph (2)(B); and

''(B) for 2010 and each year thereafter, contribute to the program of the State an amount equal to 25 percent of the value of the emission allowances received under this paragraph for the year in cash, in-kind services, or technical assistance.

''(4) USE OF EMISSION ALLOWANCES.—An entity that receives an allocation of emission allowances under this subsection may use the proceeds from the sale or other transfer of the emission allowances only for the purpose of carrying out activities described in this subsection.

''(5) RECOMMENDATIONS CONCERNING CARBON DIOXIDE EMISSION ALLOWANCES.—

''(A) IN GENERAL.—Not later than 4 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Agriculture, shall submit to Congress recommendations for establishing a system under which entities that receive grants or loans under this section may be allocated carbon dioxide emission allowances created by section 705(a) for incremental carbon sequestration in forests, agricultural soils, rangeland, or grassland.

''(B) GUIDELINES.—The recommendations shall include recommendations for development, reporting, monitoring, and verification guidelines for quantifying net carbon sequestration from land use projects that address the elements specified in paragraph (1)(A).

''(f) ALLOCATION TO ENCOURAGE GEOLOGICAL CARBON SEQUESTRATION.—

''(1) IN GENERAL.—For 2009 and each year thereafter, the Administrator shall allocate not more than 1.5 percent of the carbon dioxide emission allowances created by section 705(a) to entities that carry out geological sequestration of carbon dioxide produced by an electric generating facility in accordance with requirements established by the Administrator—

''(A) to ensure the permanence of the sequestration; and

''(B) to ensure that the sequestration will not cause or contribute to significant adverse effects on the environment.

''(2) NUMBER OF EMISSION ALLOWANCES.—For 2009 and each year thereafter, the Administrator shall allocate to each entity described in paragraph (1) a number of emission allowances that is equal to the number of tons of carbon dioxide produced by the electric generating facility during the previous year that is geologically sequestered as described in paragraph (1).

''(3) USE OF EMISSION ALLOWANCES.—An entity that receives an allocation of emission allowances under this subsection may use the proceeds from the sale or other transfer of the emission allowances only for the purpose of carrying out activities described in this subsection.

''SEC. 708. MERCURY EMISSION LIMITATIONS.

''(a) IN GENERAL.—

''(1) REGULATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations to establish emission limitations for mercury emissions by coal-fired electricity generating facilities.

''(B) NO EXCEEDANCE OF NATIONAL LIMITATION.—The regulations shall ensure that the national limitation for mercury emissions from each coal-fired electricity generating facility established under section 704(a)(4) is not exceeded.

''(C) EMISSION LIMITATIONS FOR 2008 AND THEREAFTER.—In carrying out subparagraph (A), for 2008 and each year thereafter, the Administrator shall not—

''(i) subject to subsections (e) and (f) of section 112, establish limitations on emissions of mercury from coal-fired electricity generating facilities that allow emissions in excess of 2.48 grams of mercury per 1000 megawatt hours; or

''(ii) differentiate between facilities that burn different types of coal.

''(2) ANNUAL REVIEW AND DETERMINATION.—

''(A) IN GENERAL.—Not later than April 1 of each year, the Administrator shall—

''(i) review the total mercury emissions during the 2 previous years from electricity generating facilities located in all States; and

''(ii) determine whether, during the 2 previous years, the total mercury emissions from facilities described in clause (i) exceeded the national limitation for mercury emissions established under section 704(a)(4).

''(B) EXCEEDANCE OF NATIONAL LIMITATION.—If the Administrator determines under subparagraph (A)(ii) that, during the 2 previous years, the total mercury emissions from facilities described in subparagraph (A)(i) exceeded the national limitation for mercury emissions established under section 704(a)(4), the Administrator shall, not later than 1 year after the date of the determination, revise the regulations promulgated under paragraph (1) to reduce the emission rates specified in the regulations as necessary to ensure that the national limitation for mercury emissions is not exceeded in any future year.

''(3) COMPLIANCE FLEXIBILITY.—

''(A) IN GENERAL.—Each coal-fired electricity generating facility subject to an emission limitation under this section shall be in compliance with that limitation if that limitation is greater than or equal to the quotient obtained by dividing—

''(i) the total mercury emissions of the coal-fired electricity generating facility during each 30-day period; by

''(ii) the quantity of electricity generated by the coal-fired electricity generating facility during that period.

''(B) MORE THAN 1 UNIT AT A FACILITY.—In any case in which more than 1 coal-fired electricity generating unit at a coal-fired electricity generating facility subject to an emission limitation under this section was operated in 1999 under common ownership or control, compliance with the emission limitation may be determined by averaging the emission rates of all coal-fired electricity generating units at the electricity generating facility during each 30-day period.

''(b) PREVENTION OF RE-RELEASE.—

''(1) REGULATIONS.—Not later than January 1, 2005, the Administrator shall promulgate regulations to ensure that any mercury captured or recovered by emission controls installed at an electricity generating facility is not re-released into the environment.

''(2) REQUIRED ELEMENTS.—The regulations shall require—

''(A) daily covers on all active waste disposal units, and permanent covers on all inactive waste disposal units, to prevent the release of mercury into the air;

''(B) monitoring of groundwater to ensure that mercury or mercury compounds do not migrate from the waste disposal unit;

''(C) waste disposal siting requirements and cleanup requirements to protect groundwater and surface water resources;

''(D) elimination of agricultural application of coal combustion wastes; and

''(E) appropriate limitations on mercury emissions from sources or processes that reprocess or use coal combustion waste, including manufacturers of wallboard and cement.

''SEC. 709. OTHER HAZARDOUS AIR POLLUTANTS.

''(a) IN GENERAL.—Not later than January 1, 2004, the Administrator shall issue to owners and operators of coal-fired electricity generating facilities requests for information under section 114 that are of sufficient scope to generate data sufficient to support issuance of standards under section 112(d) for hazardous air pollutants other than mercury emitted by coal-fired electricity generating facilities.

''(b) DEADLINE FOR SUBMISSION OF REQUESTED INFORMATION.—The Administrator shall require each recipient of a request for information described in subsection (a) to submit the requested data not later than 180 days after the date of the request.

''(c) PROMULGATION OF EMISSION STANDARDS.—The Administrator shall—

''(1) not later than January 1, 2005, propose emission standards under section 112(d) for hazardous air pollutants other than mercury; and

''(2) not later than January 1, 2006, promulgate emission standards under section 112(d) for hazardous air pollutants other than mercury.

''(d) PROHIBITION ON EXCESS EMISSIONS.—It shall be unlawful for an electricity generating facility subject to standards for hazardous air pollutants other than mercury promulgated under subsection (c) to emit, after December 31, 2007, any such pollutant in excess of the standards.

''(e) EFFECT ON OTHER LAW.—Nothing in this section or section 708 affects any requirement of subsection (e), (f)(2), or (n)(1)(A) of section 112, except that the emission limitations established by regulations promulgated under this section shall be deemed to represent the maximum achievable control technology for mercury emissions from electricity generating units under section 112(d).

''SEC. 710. EFFECT OF FAILURE TO PROMULGATE REGULATIONS.

''If the Administrator fails to promulgate regulations to implement and enforce the limitations specified in section 704—

''(1)(A) each electricity generating facility shall achieve, not later than January 1, 2009, an annual quantity of emissions that is less than or equal to—

''(i) in the case of nitrogen oxides, 15 percent of the annual emissions by a similar electricity generating facility that has no controls for emissions of nitrogen oxides; and

''(ii) in the case of carbon dioxide, 75 percent of the annual emissions by a similar electricity generating facility that has no controls for emissions of carbon dioxide; and

''(B) each electricity generating facility that does not use natural gas as the primary combustion fuel shall achieve, not later than January 1, 2009, an annual quantity of emissions that is less than or equal to—

''(i) in the case of sulfur dioxide, 5 percent of the annual emissions by a similar electricity generating facility that has no controls for emissions of sulfur dioxide; and

''(ii) in the case of mercury, 10 percent of the annual emissions by a similar electricity generating facility that has no controls included specifically for the purpose of controlling emissions of mercury; and

''(2) the applicable permit under this Act for each electricity generating facility shall be deemed to incorporate a requirement for achievement of the reduced levels of emissions specified in paragraph (1).

''SEC. 711. PROHIBITIONS.

''It shall be unlawful—

''(1) for the owner or operator of any electricity generating facility—

''(A) to operate the electricity generating facility in noncompliance with the requirements of this title (including any regulations implementing this title);

''(B) to fail to submit by the required date any emission allowances, or pay any penalty, for which the owner or operator is liable under section 705;

''(C) to fail to provide and comply with any plan to offset excess emissions required under section 705(f); or

''(D) to emit mercury in excess of the emission limitations established under section 708; or

''(2) for any person to hold, use, or transfer any emission allowance allocated under this title except in accordance with regulations promulgated by the Administrator.

''SEC. 712. MODERNIZATION OF ELECTRICITY GENERATING FACILITIES.

''(a) IN GENERAL.—Beginning on the later of January 1, 2014, or the date that is 40 years after the date on which the electricity generating facility commences operation, each electricity generating facility shall be subject to emission limitations reflecting the application of best available control technology on a new major source of a similar size and type (as determined by the Administrator) as determined in accordance with the procedures specified in part C of title I.

''(b) ADDITIONAL REQUIREMENTS.—The requirements of this section shall be in addition to the other requirements of this title.

''SEC. 713. RELATIONSHIP TO OTHER LAW.

''(a) IN GENERAL.—Except as expressly provided in this title, nothing in this title—

''(1) limits or otherwise affects the application of any other provision of this Act; or

''(2) precludes a State from adopting and enforcing any requirement for the control of emissions of air pollutants that is more stringent than the requirements imposed under this title.

''(b) REGIONAL SEASONAL EMISSION CONTROLS.—Nothing in this title affects any regional seasonal emission control for nitrogen oxides established by the Administrator or a State under title I.''.

(b) CONFORMING AMENDMENT.—Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by striking ''opacity'' and inserting ''mercury, opacity,''.

SEC. 3. SAVINGS CLAUSE.

Section 193 of the Clean Air Act (42 U.S.C. 7515) is amended by striking ''date of the enactment of the Clean Air Act Amendments of 1990'' each place it appears and inserting ''date of enactment of the Clean Power Act of 2003''.

SEC. 4. ACID PRECIPITATION RESEARCH PROGRAM.

Section 103(j) of the Clean Air Act (42 U.S.C. 7403(j)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (F)(i), by striking ''effects; and'' and inserting ''effects, including an assessment of—

''(I) acid-neutralizing capacity; and

''(II) changes in the number of water bodies in the sensitive ecosystems referred to in subparagraph (G)(ii) with an acid-neutralizing capacity greater than zero; and''; and

(B) by adding at the end the following:

''(G) SENSITIVE ECOSYSTEMS.—

''(i) IN GENERAL.—Beginning in 2005, and every 4 years thereafter, the report under subparagraph (E) shall include—

''(I) an identification of environmental objectives necessary to be achieved (and related indicators to be used in measuring achievement of the objectives) to adequately protect and restore sensitive ecosystems; and

''(II) an assessment of the status and trends of the environmental objectives and indicators identified in previous reports under this paragraph.

''(ii) SENSITIVE ECOSYSTEMS TO BE ADDRESSED.—Sensitive ecosystems to be addressed under clause (i) include—

''(I) the Adirondack Mountains, mid-Appalachian Mountains, Rocky Mountains, and southern Blue Ridge Mountains;

''(II) the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay; and

''(III) other sensitive ecosystems, as determined by the Administrator.

''(H) ACID DEPOSITION STANDARDS.—Beginning in 2005, and every 4 years thereafter, the report under subparagraph (E) shall include a revision of the report under section 404 of Public Law 101–549 (42 U.S.C. 7651 note) that includes a reassessment of the health and chemistry of the lakes and streams that were subjects of the original report under that section.''; and

(2) by adding at the end the following:

''(4) PROTECTION OF SENSITIVE ECOSYSTEMS.—

''(A) DETERMINATION.—Not later than December 31, 2011, the Administrator, taking into consideration the findings and recommendations of the report revisions under paragraph (3)(H), shall determine whether emission reductions under titles IV and VII are sufficient to—

''(i) achieve the necessary reductions identified under paragraph (3)(F); and

''(ii) ensure achievement of the environmental objectives identified under paragraph (3)(G).

''(B) REGULATIONS.—

''(i) IN GENERAL.—Not later than 2 years after the Administrator makes a determination under subparagraph (A) that emission reductions are not sufficient, the Administrator shall promulgate regulations to protect the sensitive ecosystems referred to in paragraph (3)(G)(ii).

''(ii) CONTENTS.—Regulations under clause (i) shall include modifications to—

''(I) provisions relating to nitrogen oxide and sulfur dioxide emission reductions;

''(II) provisions relating to allocations of nitrogen oxide and sulfur dioxide allowances; and

''(III) such other provisions as the Administrator determines to be necessary.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR DEPOSITION MONITORING.

(a) OPERATIONAL SUPPORT.—In addition to amounts made available under any other law, there are authorized to be appropriated for each of fiscal years 2004 through 2013—

(1) for operational support of the National Atmospheric Deposition Program National Trends Network—

(A) $2,000,000 to the United States Geological Survey;

(B) $600,000 to the Environmental Protection Agency;

(C) $600,000 to the National Park Service; and

(D) $400,000 to the Forest Service;

(2) for operational support of the National Atmospheric Deposition Program Mercury Deposition Network—

(A) $400,000 to the Environmental Protection Agency;

(B) $400,000 to the United States Geological Survey;

(C) $100,000 to the National Oceanic and Atmospheric Administration; and

(D) $100,000 to the National Park Service;

(3) for the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,500,000 to the National Oceanic and Atmospheric Administration;

(4) for the Clean Air Status and Trends Network $5,000,000 to the Environmental Protection Agency; and

(5) for the Temporally Integrated Monitoring of Ecosystems and Long-Term Monitoring Program $2,500,000 to the Environmental Protection Agency.

(b) MODERNIZATION.—In addition to amounts made available under any other law, there are authorized to be appropriated—

(1) for equipment and site modernization of the National Atmospheric Deposition Program National Trends Network $6,000,000 to the Environmental Protection Agency;

(2) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Mercury Deposition Network $2,000,000 to the Environmental Protection Agency;

(3) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,000,000 to the National Oceanic and Atmospheric Administration; and

(4) for equipment and site modernization and network expansion of the Clean Air Status and Trends Network $4,600,000 to the Environmental Protection Agency.

(c) AVAILABILITY OF AMOUNTS.—Each of the amounts appropriated under subsection (b) shall remain available until expended.

SEC. 6. TECHNICAL AMENDMENTS.

Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.)—

(1) is amended by redesignating sections 401 through 403 as sections 801 through 803, respectively; and

(2) is redesignated as title VIII and moved to appear at the end of that Act.

SUMMARY OF THE CLEAN POWER ACT OF 2003

Amends the Clean Air Act with a new title VII—Electric Generation Emission Reductions.

Caps—Sets annual emissions caps for three pollutants that apply beginning in 2009: SO_x—275,000 tons in western region; 1,975,000 tons in eastern region; NO_x—1,510,000 tons; and CO_2—2,050,000,000 tons.

Mercury emissions are capped in 2008 at a rate that results in 5 tons annually

The Administrator is authorized to reduce these caps if the Administrator determines that they are not reasonably anticipated to protect public health or welfare or the environment. In addition, the Administrator is authorized to limit the emissions from an electric generating facility (EGF), if she determines that its emissions may reasonably be anticipated to cause or contribute to a significant adverse impact on an area.

Modernization—By the later of 2014, or 40 years after commencing operation, each EGF must achieve emission limitations reflecting the best available control technology applied to a new major source of the same generating capacity.

Allownace Creation & Trading—Allowances are created representing each of the caps' tons and may be traded, except for

mercury. They will have unique serial numbers to identify them. Western and Eastern SO_x allowances may be traded between regions, but extra-regional allowances can't be used to meet an EGF's obligations. Trading in emission allowances with other sectors is prohibited, except if the allowances are for carbon dioxide and are created by a cap on another non-electricity sector.

Allowance Submission to Meet Caps—Three months after the end of 2009, and every year thereafter, each electric generating facility that generates 15 MW (or the thermal equivalent) or greater from a fossil fuel combustion unit or combination of units that sells electricity must give to EPA at last the amount of allowances that represent the tons they emitted in the previous year. Allowances created and banked under Title IV (acid rain—SO_x) or through Title I regulations (ozone—NO_x), may be used at the rate of 4:1. However, if allowances are banked because a facility meets NSPS in the period 2001–2008, they may be used 1:1 for compliance with Clean Power Act. Allowances under the Clean Power Act may be banked.

Emissions Emission Penalties—By 2007 and every 3 years thereafter, each state will identify the electric generating facilities in that state and in other states that are significantly contributing to non-attainment of an ozone naaqs in that state. Beginning in 2009, the Administrator is authorized, upon a petition from a state or a citizen demonstrating that control measures are inadequate to prevent that significant contribution, to require that each identified and inadequately controlled facility submit 3 nitrogen oxide emission allowances for each ton of nitrogen oxides emitted by that electricity generating facility during the period of an ozone naaqs exceedance that occurred in the previous year.

An EGF that fails to submit enough allowances to EPA will be required to submit additional emission allowances as a penalty. This is similar to section 412 of CAA. For SO_x, NO_x, and CO_2, the penalty is 3 times the excess emissions or shortfall in allowances multiplied by the average annual market price of the allowance. For mercury, the penalty is 3 times the excess emissions and the average cost of mercury controls.

Mercury Emissions Limitation—Starting in 2008, mercury emissions are limited to no greater than 2.48 grams of mercury per 1,000 megawatt hours. This is equivalent to reducing aggregate emissions of mercury from EGFs by 90 percent from today's levels, and the emission limitation imposed are deemed to be maximum achievable control technology (MACT) for mercury. In the event that aggregate emissions from EGFs go above the 5 ton cap, then EPA must adjust the limitations downward. EGFs may average their emissions over 30-day periods and between units at a single facility. EPA must promulgate regulations to prevent the rerelease of mercury into the environment from coal combustion waste, i.e. fly ash.

Non-Mercury Haps Rulemaking—EPA must proposed MACT regulations to cover non-mercury hazardous air pollutants from EGFs by 2005 and enforce them by 2008.

Monitoring—Coal-fired EGFs above 50MW will be required to conduct ambient air quality monitoring within a 30-mile radius for hazardous air pollutants and sulfur dioxide emitted by the facility. In general, EGFs must conduct continuous emission monitoring.

Allowance Allocation.

Allowances representing the tons of pollution in the emission caps for SO_x, NO_x, and CO_2, are distributed annually every year by the Administrator in 2009 to five main categories: consumers/households, transition assistance, renewable energy-efficiency-cleaner energy, carbon sequestration, and existing units.

Consumers/Households—After the allowances described below are distributed, the Administration will have a minimum of 62.5% of the total allowances to distribute to households. EPA will arrange for a trustee to receive these allowances and to convey their fair market value to households based on the number of persons in the household and the ratio of the household's state's residential electricity consumption to the national residential electricity consumption.

Transition Assistance—EPA will arrange for a trustee to receive 6% of the allowance in 2009 (this declines over 10 years by increments of .5 to 1.5% in 2018), who must then turn around and obtain fair market value for those allowances and convey:

80% of that value to dislocated workers and communities that experience a disproportionate impact due to the emission reductions required by the bill, and

20% to producers of electricity intensive products (like aluminum) based on their share of total output multiplied by the average amount of power used by most efficient production process multiplied by the national average emission rate of the covered pollutants from fossil fuel generating facilities in tons per MW.

Renewable Energy Generating Units, Efficiency Projects and Clean Energy Sources—EPA will allocate no more than 20% of the total allowances to:

(1) renewable electricity generating units based on their output multiplied by the national average emission rate of the covered pollutants from fossil fuel generating facilities in tons per MWh. So, for each avoided ton of pollution per unit of output, the renewable generator will get an allowance equal to one ton.

(2) owners and operators of energy efficient buildings, producers of energy efficient products and entities that carry out energy efficiency projects, based on the tons of pollution that would have been emitted at the national average rate for fossil fuel electricity generation or natural gas combustion for each megawatt-hour or unit of natural gas saved.

(3) cleaner fossil fuel EGFs, based on their output multiplied by half of the tons of pollution that would otherwise have been emitted at the national average rate for fossil fuel electricity generation or natural gas combustion for the same amount of output.

(4) combined heat and power facilities, based on their Btus of thermal energy output multiplied by the tons of pollution that would otherwise have been emitted in tons per Btu at a fossil fuel EGF for the same amount of output.

Carbon Sequestration—EPA will allocate up to .075% of the total carbon dioxide allowances to states for developing biological carbon sequestration inventories and for establishing state revolving loan funds for loans to owners of nonindustrial private forest lands to carry out carbon sequestration. EPW will allocate up to 1.5% of the total carbon dioxide allowances to entities conducting geologic carbon sequestration, based on the national average rate of carbon dioxide emissions from EGFs per ton sequestered.

Existing Facilities. EPA will allocate 10% of the allowances in 2009 (declining 1 point annually over time until it reaches 1% in 2018) to EGFs based on share of 2000 output.

Acid Precipitation and Sensitive ecosystem research—EPA must expand the report completed every four years on the reduction in acid deposition rates necessary to prevent adverse ecological effects by including consideration of changes in lakes and streams acid neutralizing capacity. In addition, EPA must submit a report every four years on sensitive ecosystems, including the Adirondacks, the mid-Appalachian Mountains, the Great Lakes, Lake Champlain, the Rocky Mountains, and the southern Blue Ridge Mountains. If necessary, EPA is authorized to promulgate regulations in 2012 to protect them.

Failure of EPA to Issue Regs—EPA must promulgate regulations by 2009 to implement and enforce these emission limitations or each EGF must achieve specific emission performance at each facility relative to an uncontrolled source—95% for sulfur dioxide, 85% for nitrogen oxides, 25% for carbon dioxide, and 90% for mercury.

Small Generator Inventory—EPA will conduct an inventory of emissions from Electric Generating Facilities (EGFs) with generating capacity less than 15MW. Based on that inventory, EPA will annually subtract those emissions from the total amount of allowances allocated prior to distribution each year.

Savings Clause—Nothing in the Clean Power Act precludes a State from adopting and enforcing any requirement for the control of emissions of air pollutants that is more stringent than the requirements imposed under this title.

Ms. COLLINS. Mr. President, I am pleased to join Senator JEFFORDS in introducing the Clean Power Act of 2003. This bill will remove the loophole that has allowed the dirtiest, most polluting power plants in the Nation to escape significant pollution controls for more than 30 years.

Maine is one of the most beautiful and pristine States in the Nation. It is also one of the most environmentally responsible States in the Nation. Maine has fewer emissions of the pollutants that cause smog and acid rain than all but a handful of states. Maine also has one of the lowest emissions of carbon dioxide nationwide.

Unfortunately, despite the collective environmental consciousness of both the citizens and industries of Maine, Maine still suffers from air pollution. Every lake, river, and stream in Maine is subject to a state mercury advisory that warns pregnant women and young children to limit consumption of fish caught in those waters. Even Acadia National Park, one of the most beautiful national parks in the Nation, experiences days in which visibility is obscured by smog.

Where does all this pollution come from? A large part of it comes from a relatively small number of mostly coal-fired power plants that use loopholes to escape the provisions of the Clean Air Act. Coal-fired power plants are the single largest source of air pollution, mercury contamination, and greenhouse gas emissions in the nation. A single coal-fired power plant can emit more of the pollutants that cause smog and acid rain than all of the cars, factories, and businesses in Maine combined.

As the easternmost State in the Nation, Maine is downwind of almost all power plants in the United States. Many of the pollutants emitted by these power plants—mercury, sulfur dioxide, nitrogen oxides, and carbon dioxide—end up in or over Maine. Airborne mercury falls into our lakes and

streams, contaminating freshwater fish and threatening our people's health. Carbon dioxide is causing climate change that threatens to alter Maine's delicate ecological balance. Sulfur dioxide and nitrogen oxides come to Maine in the form of acid rain and smog that damage the health of our people and the health of our environment.

A single power plant can emit nearly a ton of mercury in a single year. That's equivalent to incinerating over 1 million mercury thermometers and is enough to contaminate millions of acres of freshwater lakes. In contrast, Maine has zero power plant emissions of mercury. This bill would reduce mercury emissions from power plants by 90 percent by 2009.

I am pleased that there has been so much recognition recently of the problems that so many States are facing on clean air. President Bush has proposed a ''Clear Skies'' initiative that will reduce emissions of mercury, sulfur dioxide, and nitrogen oxides. Last year, Senators CARPER, CHAFEE, BREAUX, and BAUCUS also introduced legislation that would reduce these pollutants, as well as carbon dioxide.

There are important differences between these proposals. The Jeffords/Collins bill does more to reduce smog, acid rain, mercury pollution, and global warming than any other bill. Our bill provides more public health and environmental benefits than any other serious proposal, and it provides the benefits sooner. However, any step which reduces air pollution is a step in the right direction. Our parks and our people have waited far too long for clean air.

I think virtually everyone agrees that we need to reduce power plant pollution. I look forward to working with the Administration and my colleagues on both sides of the aisle to provide cleaner air.

Ms. SNOWE. Mr. President, I rise today to cosponsor Senator JEFFORDS' bill—as I did in the 106th and 107th Congresses—as I am dedicated to reducing power plant emissions that cause some of the Nation's—and Maine's—most serious public health and environmental problems.

For too many years, coal-burning power plants exempt from emissions standards under the Clean Air Act have created massive pollution problems for the Northeast because whatever spews out of their smokestacks in the Midwest, blows into the Northeast, including my State of Maine, giving it the dubious distinction of being at the ''end of the tailpipe'', so to speak.

The Jeffords' legislation calls for reductions of power plant emissions for pollutants that cause smog, soot, respiratory disease; acid rain that kills our forests; mercury that contaminates our lakes, rivers and streams; and climate variabilities that cause severe shifts in our weather patterns. Maine currently leads the Nation in asthma cases per capita, which is not a surprise, but which it can do little about when nearly 80 percent of the State's dirty air is not of their own making but is transported by winds blowing in from the Midwest and Southeast.

The bill will dramatically cut aggregate power plant emissions by 2009 of the four major power plant pollutants: nitrogen oxides NO_X, the primary cause of smog, by 71 percent from 2000 levels; sulfur dioxide, SO_2, that causes acid rain and respiratory disease, by 81 percent from 2000 levels; mercury, Hg, which poisons our lakes and rivers, causing fish to be unfit for human consumption, through a 90 percent reduction by 2008; and carbon dioxide, CO_2, the greenhouse gas most directly linked to global climate variabilities, by 21 percent from 2000 levels. Of note, the NO_X, SO_2, and mercury reductions are set at levels that are known to be cost effective with available technology.

The bill will also eliminate the outdated coal-burning power plants that were grandfathered in the Clean Air Act unless they apply the best available pollution control technology by their 40th birthday or 2014, whichever is later. The thinking for the exemption in the Clean Air Act was based, at the time, on the assumption that the plants would not stay on line much longer. However, as energy has gotten more expensive, companies are keeping these older, dirtier plants up and running.

Furthermore, just as the Clean Air Act already provides tradable allowances for sulfur dioxide that causes acid rain, the Jeffords' legislation also allows for tradable allowances to control emissions for three other pollutants—NO_X, SO_X, CO_2,—by using market-oriented mechanisms to meet emissions reduction requirements.

The tradable allowances would be distributed to five main categories, including 63 percent or more to households; six percent for transition assistance to affected communities and industries, which will decline over time; up to 20 percent to renewable energy generation, efficiency projects and clean energy sources, based on avoided pollution; 10 percent to existing electric generating facilities based on 2000 output; and up to 1.5 percent of the carbon dioxide allowances for biological and geological carbon sequestration. Of note, trading will not be allowed if it enables a power plant to pollute at a level that damages public health or the environment.

I realize that the Administration's Clear Skies Initiative does not address carbon dioxide as a pollutant nor does it address emissions reductions for CO_2. While I recognize that the pollutants listed under the Clear Air Act have been to achieve healthier air for humans by cutting back on smog and soot, and also for mercury contamination, I believe it is long past due that carbon dioxide be recognized as a pollutant that is harming the health of the planet.

I am supporting the goal of CO_2 emissions reduction in the Jeffords' bill in the hopes that the bill will be a rallying point to further the debate for reducing CO_2 and at the same time, get our air cleaner on a quicker timeframe. In particular, Congress needs to develop a market mechanism approach for CO_2 emissions trading—such as we now have for acid rain—to allow U.S. industries the flexibility and certainty to reduce CO_2 emissions without the threat of higher energy production costs in the future that will be passed on to the consumer. I will continue to work with my colleagues, the White House and representatives from various industry groups, and environmental organizations to achieve this goal.

The bottom line is that we have the opportunity to raise the bar for cleaner domestic energy production in an economically effective manner. Solutions exist in available and developing technologies, and most of all in the entrepreneurial spirit of the American people who want a cleaner and healthier environment, including those in Maine who want to ensure that the State's pristine lakes and coast will remain clean and our forests healthy for generations to come. States like Maine are leading the way in trying to reduce CO_2 emissions—and the Jeffords' legislation sends a powerful message to those who would pollute our air: your days are numbered.

I am optimistic that the Congress can come together with the President, industry and all those who want cleaner, healthier air to create a cohesive policy that is best suited for our nation, so I urge my colleagues to support the Jeffords' legislation.

By Mr. ROCKEFELLER:

S. 367. A bill to amend part A of title IV of the Social Security Act to reauthorize and improve the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am proud to re-introduce a bill that reauthorizes the landmark welfare reform legislation passed in 1996. It is basically the same bill as I introduced in the last Congress and it is designed to allow States to continue the important work to promote work and personal responsibility. This reauthorization bill is designed to allow States to continue to provide the flexible initiatives that have reduced national welfare caseloads by over 50 percent and moved millions of Americans from welfare to work.

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

Seven years ago, we agreed that the bipartisan goal of welfare reform should be to promote work and to protect children. We stood here together,

on unchartered ground, and endorsed significant policy changes that we believed would help families gain independence and economic self-sufficiency, while protecting the children. States began to revise welfare service delivery with guidance based on the new reforms. Each State designed and implemented programs that were unique and specific to their populations. While the results have been mixed, I believe that encouraging progress has been made. The challenge this year will be to continue to build on our foundation, and be sensitive to the current economic situation and the fiscal crisis States face today.

When we started welfare reform, we had a strong economy. Now, States are struggling and most of their reserves are gone. I believe we can continue the progress of welfare reform, but I strongly believe we must provide the key investments that help welfare parents make a successful transition from welfare to work, including increasing child care funding.

In West Virginia, welfare reform has brought bold changes. Parents on welfare get extra support as they face new responsibilities and obligations to make the transition from welfare to jobs. In 2001, I hosted a roundtable discussion to meet with individual West Virginians who were undergoing major life transitions. They told me that they were proud to be working, but that it was often still a struggle to make ends meet and do the best for their children. The goal of this legislation is to help those parents, and millions more, to promote the well-being of their children, even as they work.

Today, I am introducing the Personal Responsibility and Work Opportunity Reconciliation Act Amendments of 2003. States need help to continue making progress. We should continue to build on this foundation, and not reduce state flexibility. It is essential that we continue welfare reform, not unravel it, or restructure it.

This bill acknowledges that we must keep the focus on work, by both requiring and rewarding work. To ensure a real focus on helping parents leave welfare rolls for a job, this legislation gradually replaces the caseload reduction credit with an employment credit, designed by Senator LINCOLN of Arkansas and Congressman LEVIN of Michigan. Under this important provision, States will only get a bonus toward their work participation requirement if parents move from welfare to a job. This credit will acknowledge the dignity of all work by providing a bonus for parents who get jobs, both full and part-time. A mother who has never worked in her life and then gets a part-time job has achieved a true accomplishment, and that deserves recognition. It is also the first step toward independence. It is an empowering approach to promoting work and sends the proper message to families who are striving to become self sufficient. I am pleased to incorporate their proposal into my bill, and I look forward to working with them closely throughout the welfare debates during this Congress to develop an employment credit that truly rewards work.

At this point, with a soft economy, I believe it is unwise to significantly change State TANF programs to impose drastically higher work participation rates requiring 40 hours per week of work and activities. Such changes, as suggested by the Administration, would double the work requirement for mothers with children under the age of 6, and that does not seem right. Increasing work requirement without new funding for child care, transportation, and job placement activities would be, plain and simple, an unfunded mandate. It could hinder state efforts to move parents into private sector jobs. It could undermine our progress.

State officials have testified before the Finance Committee that such changes would force states to restructure existing programs that are working and turn their focus away from those who need some assistance with child care or transportation, but are no longer dependent on a welfare check. We should not cut back on necessary child care and work supports for working families who are following the rules we set in 1996.

This comprehensive welfare reform bill makes the right investments. It invests $5.5 billion more in child care, which is the amount supported by the Finance Committee in a bipartisan vote last June.

This bill also increases funding for the basic TANF block grant by $2.5 billion because of state need. It provides full funding for the Social Services at $2.8 billion, which was promised to the states in 1996. My bill also would expand and increase the supplemental grants to help the states with high growth and high poverty deal with the challenges of welfare reform. With these new investments, states will be able to increase investment in the fundamental work supports like child care, transportation, and training, that help a parent succeed in moving from welfare to work. States would have flexibility in allocating the new resources, but I believe much of the funding can and will be directed into child care, which is a major priority.

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

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

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

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

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

This legislation builds on the foundation of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. My hope is that this framework will help promote bipartisan discussion about how we can make even more improvements in our welfare system,

while maintaining our partnership with the States, particularly at this time of severe fiscal problems in our States.

By Mr. McCAIN (for himself and Mr. GRAHAM of South Carolina):

S. 368. A bill to amend title X of the Social Security Act to include additional information in social security account statements; to the Committee on Finance.

Mr. MCCAIN. Mr. President, today, there is a greater awareness of the precarious financial condition confronting our Nation's Social Security system. Unfortunately, partisanship has controlled the debate on reform, polarizing and paralyzing Congress, while the fate of Social Security has become more grim and the consequent need for reform has become more urgent.

It is now time for us to come together to reform and revitalize this system, so that Social Security will continue to benefit both the seniors of today and tomorrow. As elected officials, we have an obligation to ensure that Social Security benefits are paid as promised, without unfairly burdening the workers of today.

American workers deserve to know the true financial status of the Social Security program. Each individual should have the right to honest information, including the real value of their personal retirement benefits. Most Americans have little knowledge of the true financial status of Social Security because the current system does not provide them with practical, easy to understand information.

Today, Senator LINDSEY GRAHAM and I are introducing a bill that will require the inclusion of that practical information in annual Social Security statements sent to all taxpaying Americans. These statements will include straight forward information regarding the average rate of return workers can expect to receive from Social Security as compared to the amount of taxes an individual pays into the program, the amount Social Security receives in payroll, how much revenue is needed to give promised benefits to seniors, and the date when the program will no longer have sufficient funds to pay promised benefits. It is only fair and just to provide everyone with the true facts about how much they will pay in payroll taxes and what the limited return will be on their contributions.

We must talk straight to Americans about Social Security and begin working together in a bipartisan fashion to make the necessary changes to strengthen and save the Nation's retirement program for the seniors of today and tomorrow.

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

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

S. 368

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 ''Straight Talk on Social Security Act of 2003''.

SEC. 2. MATERIAL TO BE INCLUDED IN SOCIAL SECURITY ACCOUNT STATEMENT.

Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (C) by striking ''and'' at the end;

(2) in subparagraph (D) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(E) a statement of the current social security tax rates applicable with respect to wages and self-employment income, including an indication of the combined total of such rates of employee and employer taxes with respect to wages; and

''(F)(i) as determined by the Chief Actuary of the Social Security Administration, a comparison of the total annual amount of social security tax inflows (including amounts appropriated under subsections (a) and (b) of section 201 of this Act and section 121(e) of the Social Security Amendments of 1983 (42 U.S.C. 401 note)) during the preceding calendar year to the total annual amount paid in benefits during such calendar year;

''(ii) as determined by such Chief Actuary—

''(I) a statement of whether the ratio of the inflows described in clause (i) for future calendar years to amounts paid for such calendar years is expected to result in a cash flow deficit,

''(II) the calendar year that is expected to be the year in which any such deficit will commence, and

''(III) the first calendar year in which funds in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund will cease to be sufficient to cover any such deficit;

''(iii) an explanation that states in substance—

''(I) that the Trust Fund balances reflect resources authorized by the Congress to pay future benefits, but they do not consist of real economic assets that can be used in the future to fund benefits, and that such balances are claims against the United States Treasury that, when redeemed, must be financed through increased taxes, public borrowing, benefit reduction, or elimination of other Federal expenditures,

''(II) that such benefits are established and maintained only to the extent the laws enacted by the Congress to govern such benefits so provide, and

''(III) that, under current law, inflows to the Trust Funds are at levels inadequate to ensure indefinitely the payment of benefits in full; and

''(iv) in simple and easily understood terms—

''(I) a representation of the rate of return that a typical taxpayer retiring at retirement age (as defined in section 216(l)) credited each year with average wages and self-employment income would receive on old-age insurance benefits as compared to the total amount of employer, employee, and self-employment contributions of such a taxpayer, as determined by such Chief Actuary for each cohort of workers born in each year beginning with 1925, which shall be set out in chart or graph form with an explanatory caption or legend, and

''(II) an explanation for the occurrence of past changes in such rate of return and for the possible occurrence of future changes in such rate of return.

The Comptroller General of the United States shall consult with the Chief Actuary to the extent the Chief Actuary determines necessary to meet the requirements of subparagraph (F).''.

By Mr. THOMAS:

S. 369. A bill to amend the Endangered species Act of 1973 to improve the processes for listing, recovery planning, and delisting, and for other purposes; to the Committee on Environment and Public Works.

Mr. THOMAS. Mr. President, I rise today to introduce the ''Listing and Delisting Reform Act of 2003.'' The Endangered Species Act has become one of the best examples of good intentions gone astray. Today, I am taking one small step toward injecting some common sense into what has become a regulatory nightmare. It is my intention to start making the law more effective for local landowners, public land managers, communities and State governments who truly hold the key to any successful effort to conserve species. My legislation seeks to improve the listing, recovery planning and delisting processes so that recovery, the goal of the act, is easier to achieve.

In Wyoming, we have seen first hand the need to revise the listing and delisting processes of the Endangered Species Act. Listing should be a purely scientific decision. Listing should be based on credible data that has been peer-reviewed. In 1998, the Preble's Meadow Jumping Mouse was listed in the State of Wyoming. The listing process for this mouse demonstrates how the system has gone haywire, devoid of good science. One of the more significant shortcomings regarding the handling of the Preble Mouse has been the confusion between the ''known range'' as opposed to the alleged ''historical range'' of the mouse. Historical data and current knowledge do not support the high, short-grass, semi-arid plains of southeastern Wyoming as part of the mouse's historical habitat range. The U.S. Fish and Wildlife Service has even admitted to uncertainties regarding taxonomic distinctions and ranges. further, the State was not properly notified causing counties, commissioners, and landowners all to be caught off guard. Such poor practices do not foster the types of partnerships that are required if meaningful species conservation is to occur. Clearly, changes to the Endangered Species Act are desperately needed.

Not far behind the mouse in Wyoming, was the black tailed prairie dog. Petitions to list the prairie dog were filed with the U.S. Fish and Wildlife Service. I've lived in Wyoming most of my life, and I've logged a lot of miles on the roads and highways in my State over the years. I can tell you from experience that there is no shortage of prairie dogs in Wyoming. Any farmer or rancher will concur with that opinion. This petition, and countless other actions throughout the country, makes it painfully clear that some folks are intent on completely eliminating activity on public lands, no matter what the cost to individuals or local communities that rely on the land for economic survival.

My legislation will require the Secretary of the Interior to use scientific

or commercial data that is empirical, field tested and peer-reviewed. Right now, it's basically a ''postage stamp'' petition: any person who wants to start a listing process may petition a species with little or no scientific support. This legislation prevents this absurd practice by establishing minimum requirements for a listing petition that includes an analysis of the status of the species, its range, population trends and threats. The petition must also be peer reviewed. In order to list a species, the Secretary must determine if sufficient biological information exists in the petition to support a recovery plan. Under my proposal, States are made active participants in the process and the general public is provided a more substantial role.

This legislation requires explicit planning and forethought with regard to conservation and recovery at the time the species is listed. Let me be clear about the intent of this requirement. I do not question the basic premise that some species require the protection of the Endangered Species Act. However, listing a species can cause hardship on a community. For that reason, it is critically important and only reasonable that every listing be supported by sound science. We should be sure of the need for a listing before we ask the members of our communities and private landowners to make sacrifices.

In Wyoming, I have found that with several listings, the Secretary of the Interior was unable to tell me what measures were required to achieve species recovery. The Secretary could not tell me what acts or omissions we could expect to face as a consequence of listing. How can this be, if the Secretary is fully apprized of the status of the species? Conversely, if the Secretary cannot clearly describe how to reverse threatening acts to a species so that we can achieve recovery, how can we be sure that the species is, in fact, threatened?

This ambiguity has caused much undue frustration to the people of Wyoming. If the Secretary believes that certain farming or ranching practices, or a private citizen's development of their own property is the cause for a listing, then the Secretary should identify those activities that have to be curtailed or changed. If the Secretary does not have enough information to indicate what activities should be restricted, then why list a species? Why open producers and others to the burden of over-zealous enforcement and even litigation without being able to achieve the goal of recovering the species?

This legislation is ultimately designed to improve the quality of information used to support a listing. If the Secretary knows enough to list a species, that person should know enough to tell us what will be required for recovery. That should be the case under current law, and that is all that this provision would require.

Additionally, we need to revise the end of the process, the de-listing procedure. Recovery should be the goal of the Endangered Species Act. Yet, it is virtually impossible to de-list a species. There is no certainty in the process, and the State who has all the responsibility for managing the species once it is off the list are not true partners in that process. Once the recovery plan is met, the species should be delisted.

Wyoming's experience with the Grizzly bear pinpoints some of the problems with the current de-listing process. The Interagency Grizzly Bear Committee set criteria for recovery and in the Yellowstone ecosystem, those targets have been met, but the bear has still not been removed from the list. We've been battling the U.S. Fish and Wildlife Service for years over this issue to no avail. Despite rebounded populations, we keep funneling money down a black hole.

The point is something needs to be done. People in Wyoming have grown weary of the Endangered Species Act and the efforts of a vocal minority to run roughshod over their lives and interests. It is imperative to the longevity of many species and our citizens in the West that we bring this Act to the snubbing post and gain control of the process. The changes I've suggested will have a significant affect on the quality of science, public participation, state involvement, speed in recovery and finally the delisting of a species. Species that truly need protection will be protected, but let's not lose sight of the real goal—recovery and delisting.

By Mr. DEWINE (for himself, Mrs. CLINTON, and Mr. REED).

S. 371. A bill to amend the Public Health Service Act to ensure an adequate supply of vaccines; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I rise today, along with my colleague from New York, Senator CLINTON, to introduce the Childhood Vaccine Supply Act—a bill that would help ensure that our nation's public health system has an adequate vaccine supply.

Vaccinations are critical in our efforts to keep our population, particularly children and the elderly, healthy. They are key in protecting the elderly from influenza during flu season or protecting children from contracting polio or the mumps. They—vaccinations, inoculations, immunizations, whatever you want to call them—also help lessen the threat of bacterial or viral infections and potential disease outbreaks.

Currently, it is recommended that children receive 12 routine vaccinations against preventable diseases. These vaccinations are given in a series of shots and booster shots by the age of two, with an additional four doses later in life. This ends up being about 16 to 20 doses of vaccines for children. Yet, just last year, over half of the vaccines children need were in short supply.

That shortage of vaccines was not acceptable, and we should do all we can to prevent any future shortage and do all we can to protect our kids from illness and disease. As a Senator, and more importantly, as a father of eight and grandfather of eight, nothing is more important to parents than the health and safety of our children.

While we are not currently experiencing a shortage, we know that the vaccine market is unstable and unpredictable. According to the Centers for Disease Control's National Immunization Program, there were several reasons for the shortages last year. The CDC concluded and posted on its website that the ''reasons for these shortages were multi-factorial and included companies leaving the vaccine market, manufacturing or production problems, and insufficient stockpiles.'' The CDC did as good a job as it possibly could, especially considering the vaccine shortages our nation faced last year. The agency's website posted information about shortages and released revised vaccine schedules to keep our public informed and knowledgeable about vaccination shortages.

But, even with the strong efforts of the CDC, we can work toward preventing a future vaccine shortage. We can work toward a more permanent solution. The bill I am introducing with my colleague from New York will go a long way to do just that.

The bill we are introducing today—the Childhood Vaccine Supply Act—would help bring some stability to our fragile vaccine supply. Unlike drug manufacturers, vaccine manufacturers do not have to give notice when they stop making a vaccine—whether the vaccine is withdrawn from the market intentionally or because the manufacturer is simply unable to continue making the vaccine. Essentially, these manufacturers leave the marketplace with no notice and no warning. Most doctors and hospitals—and more importantly parents and older adults—often have no idea that a vaccine is in short supply until they line up for a flu shot or go to the doctor for their child's immunizations.

Our bill would change this. It would require any manufacturer of a vaccine to give notice of discontinuance. By giving notice, the Centers for Disease Control, CDC, and the Food and Drug Administration, FDA, would be better able to ensure an adequate vaccine supply for our Nation's population. Additionally, our bill would require all drug and vaccine manufacturers to give notice when they withdraw from the market. This change would ensure that we have a better sense of who is making vaccines and drugs and would allow the CDC and FDA to monitor the manufacturer's production and release of vaccines. Let me explain why this is important.

Vaccines, or biological products, are difficult to develop and manufacture. They are more complex than drugs. Because of this, it takes longer for a biological product to reach the market.

For example, a pharmaceutical company that manufactured tetanus vaccine stopped producing it, leaving only one company to produce tetanus vaccine for the entire country. The remaining company increased production to accommodate all of the needs of the United States. Despite this, it still required about 11 months for the vaccine to be ready for release. In other words, it took 11 months for the company to ramp-up production to meet demand. Our bill would create a notification mechanism to capture those drugs and vaccines leaving the market so we can avoid future vaccine and drug shortages.

Our bill would take another important step toward ensuring an adequate vaccine supply. It would confirm the authority of the CDC to develop a plan for the purchase, storage, and rotation of a supply of vaccines sufficient to provide routinely recommended vaccinations for a six-month period for children and adults. Essentially, our bill would create a framework for the CDC to develop a national vaccine stockpile to ensure that childhood vaccine shortages simply do not occur.

Our children deserve timely vaccinations. When childhood vaccinations are in short supply or are unavailable, they do without, living unprotected against disease. That should never happen. Our bill is a step toward ensuring children get the vaccines they need and that they get them at the right time. I urge my colleagues to join us in support of this important public health legislation.

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. 371

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

SECTION 1. SUPPLY OF VACCINES.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end the following:

''Subtitle 3—Adequate Vaccine Supply

''SEC. 2141. SUPPLY OF VACCINES.

''(a) IN GENERAL.—

''(1) PLAN.—Not later than 6 months after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop a plan for the purchase, storage, and rotation of a supply of vaccines sufficient to provide routinely recommended vaccinations for a 6-month period for—

''(A) a national stockpile of vaccines for all children as authorized under section 1928(d)(6) of the Social Security Act (42 U.S.C. 1396s(d)(6)); and

''(B) adults.

''(2) SUPPLY.—The supply of vaccines under paragraph (1) shall—

''(A) include all vaccines routinely recommended for children by the Advisory Committee on Immunization Practices; and

''(B) include all vaccines routinely recommended for adults by the Advisory Committee on Immunization Practices.

''(3) SUPPLY AUTHORITY.—The Secretary shall carry out—

''(A) paragraph (2)(A) using the authority provided for under section 1928(d)(6) of the Social Security Act (42 U.S.C. 1396s(d)(6)); and

''(B) paragraph (2)(B) using—

''(i) the authority provided for under section 317; and

''(ii) any other authority relating to the vaccines described in such paragraph.

''(b) SUBMISSION OF PLAN.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit the plan developed under subsection (a) to—

''(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(B) the Committee on Finance of the Senate; and

''(C) the Committee on Energy and Commerce of the House of Representatives.

''(2) INCLUSIONS.—The plan shall include a discussion of the considerations that formed—

''(A) the basis for the plan; and

''(B) the prioritization of the schedule for purchasing vaccines set forth in the plan.

''(c) IMPLEMENTATION OF THE PLAN.—Not later than September 30, 2006, the Secretary shall fully implement the plan developed under subsection (a).

''(d) NOTICE.—

''(1) IN GENERAL.—For the purposes of maintaining and administering the supply of vaccines described under subsection (a), the Secretary shall require by contract that the manufacturer of a vaccine included in such supply provide not less than 1 year notice to the Secretary of a discontinuance of the manufacture of the vaccine, or of other factors, that may prevent the manufacturer from providing vaccines pursuant to an arrangement made to carry out this section.

''(2) REDUCTION OF PERIOD OF NOTICE.—The notification period required under paragraph (1) may be reduced if the manufacturer certifies to the Secretary that good cause exists for reduction, under the conditions described in section 506C(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356c).

''(e) PROCEEDS.—Any proceeds received by the Secretary from the sale of vaccines contained in the supply maintained pursuant to this section, shall be available to the Secretary for the purpose of purchasing additional vaccines for the supply. Such proceeds shall remain available until expended.

''(f) ONGOING REPORTS.—

''(1) IN GENERAL.—Not later than 2 years after submitting the plan pursuant to subsection (b), and periodically thereafter, the Secretary shall submit a report to the Committees identified in subsection (b)(1) that—

''(A) details the progress made in implementing the plan developed under subsection (a); and

''(B) notes impediments, if any, to implementing the plan developed under subsection (a).

''(2) RECOMMENDATION.—The Secretary shall include in the first of such reports required under paragraph (1)—

''(A) a recommendation as to whether the vaccine supply should be extended beyond the 6-month period provided in subsection (a); and

''(B) a discussion of the considerations that formed the recommendation under subparagraph (A).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2004 through 2009.''.

Mrs. CLINTON. Mr. President, I rise today to discuss an important issue to which I have pledged my constant dedication throughout my career—ensuring that children have access to affordable and safe vaccines. These vaccines are one of the most successful and cost-effective tools we have to prevent disease and death.

Yet only a year ago, however, doctors had to turn families away at the door because of national vaccine shortages for eight out of the eleven vaccine-preventable diseases. During the vaccine shortage, children became ill with pneumococcal meningitis and pneumonia, diseases that could have been prevented with an adequate supply of the pneumococcal vaccine.

Since the HELP Committee met to discuss the vaccine shortage crisis, we have witnessed some significant progress, which is a credit to a collaborative effort by public health officials, vaccine manufacturers and providers. Shortages for five vaccines have stopped, and childhood vaccines for eight different diseases are no longer being delayed. These shortages, temporarily alleviated, could return at any time. I know that my home state of New York, like the rest of the Nation, only has a one-to-two month stockpile for some of the routinely recommended childhood vaccines.

At the most recent HELP Committee hearing no vaccines, we listened to a GAO report that acknowledged two critical components to protecting our children's health security, and today I rise to present legislation that would take these two important steps.

Having the government stockpile vaccines is important because vaccine production is a complex process. The GAO report confirmed that a pause in production for safety reasons could happen again and would have a critical and devastating impact on the ability to vaccinate children and adults. I appreciate the administration's announced commitment to provide funds in the 2004 Budget for a vaccine stockpile. The Childhood Vaccine Supply Act would strengthen and support the administration's authority in these efforts and assure that the stockpile includes adults as well as all children, who were affected by the tetanus-diphtheria toxoid shortage last year.

* * *

We also need an additional buffer because DCD acknowledges that it will take 4 years before we can have a 6-month stockpile of childhood vaccines. We need a notification mechanism so that CDC can work with other manufacturers to maintain the vaccine supply when a manufacturer cannot produce an adequate supply of vaccine. Each of the four major vaccine producers has stated that they do not object to this sort of an advance notice provision. The Childhood Vaccine Supply Act would create a notification mechanism for manufacturers to give one-year advance notice when they intend to stop making a vaccine.

We have worked amicably with Senators FRIST, GREGG, and KENNEDY on both of these vaccine provisions. We have work amicably with Senator

FRIST on this issue and our vaccine provisions, and fully expect to continue working with this bipartisan group of Senators to accomplish the important goal of assuring safe vaccines for all children.

By Mr. THOMAS (for himself and Mr. CRAIG):

S. 372. A bill to amend the National Environmental Policy Act of 1969 to require that Federal agencies consult with State agencies and county and local governments on environmental impact statements; to the Committee on Environment and Public Works.

Mr. THOMAS. Mr. President, I rise today to introduce the ''State and Local Government Participation Act of 2003'' which would amend the National Environmental Policy Act, NEPA. This bill is designed to guarantee that Federal agencies identify State, county and local governments as cooperating agencies when fulfilling their environmental planning responsibilities under NEPA.

NEPA was designed to ensure that the environmental impacts of a proposed Federal action are considered and minimized by the federal agency taking that action. It was supposed to provide for adequate public participation in the decision making process on these Federal activities and document an agency's final conclusions with respect to the proposed action.

Although this sounds simple and quite reasonable, NEPA has become a real problem in Wyoming and many States throughout the Nation. A statute that was supposed to provide for additional public input in the federal land management process has instead become an unworkable and cumbersome law. Instead of clarifying and expediting the public planning process on Federal lands. NEPA now serves to delay action and shut-out local governments that depend on the proper use of these Federal lands for their existence.

The ''State and Local Government Participation Act'' is designed to provide for greater input from State and local governments in the NEPA process. This measure would simply guarantee that State, county and local agencies be identified as cooperating entities when preparing land management plans under NEPA. Although the law already provides for voluntary inclusion of state and local entities in the planning process, too often, the federal agencies choose to ignore local governments when preparing planning documents under NEPA. Unfortunately, many Federal agencies have become so engrossed in examining every environmental aspect of a proposed action on Federal land, they have forgotten to consult with the folks who actually live near and depend on these areas for their economic survival.

States and local communities must be consulted and included when proposed actions are being taken on Federal lands in their State. Too often, Federal land managers are more concerned about the comments of environmental organizations located in Washington, DC or New York City than the people who actually live in the State where the proposed action will take place. This is wrong. The concerns, comments and input of state and local communities are vital for the proper management of federal lands in the West. The ''State and Local Government Participation Act of 2003'' will begin to address this troubling problem and guarantee that local folks will be involved in proposed decision that will affect their lives.

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. 372

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 ''State and Local Government Participation Act of 2003''.

SEC. 2. CONSULTATION WITH STATE AGENCIES AND COUNTY AND LOCAL GOVERNMENTS ON ENVIRONMENTAL IMPACT STATEMENTS.

Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is amended in the first sentence of the matter following clause (v) by striking ''any Federal agency which has'' and inserting ''each Federal agency, State agency, county government, and local government that has''.

By Mr. KENNEDY (for himself, Mr. KERRY, Mr. AKAKA, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. INOUYE, Mr. FEINGOLD, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. REED, and Mr. SARBANES):

S. 373. A bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senators KERRY, CLINTON, SARBANES, CORZINE, MIKULSKI, DODD, LEVIN, REED, LIEBERMAN, FEINGOLD, INOUYE, and AKAKA in introducing the Safe Nursing and Patient Care Act.

Current Federal safety standards limit work hours for pilots, flight attendants, truck drivers, railroad engineers and other professionals, in order to protect the public safety. However, no similar limitation currently exists for the Nation's nurses, who care for so many of our most vulnerable citizens.

The Safe Nursing and Patient Care Act will limit mandatory overtime for nurses in order to protect patient safety and improve working conditions for nurses. Across the country today, the widespread practice of mandatory overtime means that over-worked nurses are often providing care in unacceptable circumstances. Restrictions for mandatory overtime will help ensure that nurses are able to provide the highest quality of care to their patients.

Some hospitals have taken action to deal with this serious problem. Over the last few years in Massachusetts Brockton Hospital and St. Vincent Hospital agreed to limit mandatory overtime as part of negotiations following successful strikes by nurses. These limits will protect patients and improve working conditions for the nurses, and will help in the recruitment and retention of nurses in the future.

Job dissatisfaction and harsh overtime hours are major factors in the current shortage of nurses. Nationally, the shortfall is expected to rise to 20 percent in coming years. The goal of the Safe Nursing and Patient Care Act is to improve the quality of life for nurses, so that more persons will enter the nursing profession and remain in it.

The bill limits mandatory overtime to declared states of emergency. Clearly, there are times when other options are exhausted and hospitals need additional help. The bill takes account of such needs. The bill requires health providers to notify nurses of these new rights, and nurses who report violations are guaranteed protection from workplace discrimination. In addition, the bill requires the Agency for Health Care Research and Quality to report to Congress on appropriate standards for the maximum numbers of hours that nurses should work in various health settings without compromising patient care.

Improving conditions for nurses is an essential part of our ongoing effort to reduce medical errors, improve patient outcomes, and encourage more Americans to become and remain nurses. The power of providers to force nurses to work beyond what is safe for themselves and their patients is one of the major drawbacks to careers in nursing. The Safe Nursing and Patient Care Act is a significant step that Congress can take to support the Nation's nurses, and I urge my colleagues to support it.

By Mr. BAUCUS (for himself, Mr. BUNNING, Mr. ENZI, Mr. CRAPO, Mr. BURNS, Mr. JOHNSON, Mr. BAYH, Mr. COCHRAN, Mr. INOFE, Mr. ALLEN, Mr. NICKLES, Mr. WARNER, and Mr. MILLER):

S. 374. A bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer; to the Committee on Finance.

Mr. BAUCUS. Mr. President, it is with great pleasure that I join my good friend and colleague, Senator Bunning today in introducing legislation that will repeal the Special Occupational Tax, (SOT), on taxpayers who manufacture, distribute, and sell alcoholic beverages. The special occupational tax is

not a tax on alcoholic products, but rather operates as a license fee on businesses. The tax is imposed on those engaged in the business of selling alcohol beverages. Believe it or not, this tax was originally established to help finance the Civil War. That war is over, and this inequitable tax has outlived its original purpose. Clearly an example of an anticipated approach to Federal taxation, repealing the SOT has an element of simplification in it.

The SOT on alcohol dramatically increased during the budget process in 1988 and has unfairly burdened business owners across the country since. From Thompson Falls to Sidney, from Chinook to Billings, small businesses are burdened with yet another tax in the form of the SOT. According to the ATF, there are 480,427 locations nationwide that pay SOT's every year, including 485,603 retailers. These retail establishments account for $114 million out of $126 million in SOT revenues.

In Montana, there are 3,378 locations, including 3,254 restaurants and 494 convenience stores, which pay nearly $2 million dollars in the SOT every year. Seasonal resorts in Whitefish and Yellowstone, ''mom and pop'' convenience stores in Butte, and allowing alleys, flower shops, and restaurants across Montana, and the United States, pay the Federal Government almost $100 million per year for the privilege of running businesses that sell beer, wine, or alcoholic beverages.

The SOT is extremely regressive. Retailers must annually pay $250 per location; wholesalers pay $500; vintners and distillers pay $1000. Because the SOT is levied on a per location basis, a sole proprietorship must pay the same amount as one of the Nation's largest retailers, and locally-owned chains having to pay per location, would have to pay as much as, if not more than, the Nation's largest single site brewery. In testimony before the Finance Committee last spring, a small business owner from Helena, MT who runs four convenience stores and three restaurants said it best. ''Whether it's a seasonal restaurant, an Elks Lodge or American Legion, a bowling center, campground, a florist who delivers gift baskets containing wine, or a convenience store operator, no one is spared from the tax.'' This is not what Congress had in mind 150 years ago, and I don't believe it's a situation we want today.

Repealing the SOT on alcohol is supported by a broad-based group of business organizations and enjoys widespread bipartisan support on Capital Hill. Similar legislation is being introduced in the House today, and a bill, identical to this one, was introduced in the previous Congress, but for one reason or another, the law was not enacted.

The legislation preserves ATF's record-keeping requirements, while removing the agency's enforcement burden, and will save up to $2 million per year. The GAO examined SOT efficacy several times, and found it fundamentally flawed. The Joint Committee on Taxation called for the elimination of SOT in its June 2001 simplification study.

More than 90 percent of all SOT revenue comes from retailers—a great majority of that number are small businesses. Recently, President Bush met with a group of small business owners and employees in St. Louis. He said, ''The best way to encourage job growth is to let [small businesses] keep more of their own money, so they can invest in their business and make it easier for somebody to find work.'' Repealing the SOT would provide an immediate and visible tax cut to small business owners.

Now, as the Federal Government considers ways to provide additional economic stimulus to the people who need it most, the time is right for us to move forward and enact this legislation to repeal the SOT an alcohol. We urge our colleagues to join us in this endeavor.

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. 374

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

SECTION 1. REPEAL OF OCCUPATIONAL TAXES RELATING TO DISTILLED SPIRITS, WINE, AND BEER.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 of the Internal Revenue Code of 1986 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 of such Code is amended by striking '', on payment of a special tax per annum,''.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 of such Code is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 of such Code and the table of subparts for such part are amended to read as follows:

''PART II—MISCELLANEOUS PROVISIONS

''Subpart A. Manufacturers of stills.

''Subpart B. Nonbeverage domestic drawback claimants.

''Subpart C. Recordkeeping by dealers.

''Subpart D. Other provisions.''

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

''Part II. Miscellaneous provisions.''

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking ''and rate of tax'' in the item relating to section 5111, as so redesignated.

(C) Section 5111 of such Code, as redesignated by subparagraph (A), is amended—

(i) by striking ''and rate of tax'' in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 of such Code is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

''Subpart C—Recordkeeping by Dealers

''Sec. 5121. Recordkeeping by wholesale dealers.

''Sec. 5122. Recordkeeping by retail dealers.

''Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.''

(5)(A) Section 5114 of such Code (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 of such Code is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.'',

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) WHOLESALE DEALERS.—For purposes of this part—

''(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

''(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

''(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

''(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.''

(C) Paragraph (3) of section 5121(d) of such Code, as so redesignated, is amended by striking ''section 5146'' and inserting ''section 5123''.

(6)(A) Section 5124 of such Code (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 of such Code and inserted after section 5121.

(B) Section 5124 of such Code is amended—

(i) by striking the section heading and inserting the following new heading:

''SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.'',

(ii) by striking ''section 5146'' in subsection (c) and inserting ''section 5123'', and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) RETAIL DEALERS.—For purposes of this section—

''(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

''(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

''(3) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).''

(7) Section 5146 of such Code is moved to subpart C of part II of subchapter A of chapter 51 of such Code, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 of such Code is amended by inserting after subpart C the following new subpart:

''Subpart D—Other Provisions

''Sec. 5131. Packaging distilled spirits for industrial uses.

''Sec. 5132. Prohibited purchases by dealers.''

(9) Section 5116 of such Code is moved to subpart D of part II of subchapter A of chapter 51 of such Code, inserted after the table of sections, redesignated as section 5131, and amended by inserting ''(as defined in section 5121(c))'' after ''dealer'' in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 of such Code is amended by adding at the end thereof the following new section:

''SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

''(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

''(b) PENALTY AND FORFEITURE.—

''For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.''

(11) Subsection (b) of section 5002 of such Code is amended—

(A) by striking ''section 5112(a)'' and inserting ''section 5121(c)(3)'',

(B) by striking ''section 5112'' and inserting ''section 5121(c)'',

(C) by striking ''section 5122'' and inserting ''section 5122(c)''.

(12) Subparagraph (A) of section 5010(c)(2) of such Code is amended by striking ''section 5134'' and inserting ''section 5114''.

(13) Subsection (d) of section 5052 of such Code is amended to read as follows:

''(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).''

(14) The text of section 5182 of such Code is amended to read as follows:

''For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122.''

(15) Subsection (b) of section 5402 of such Code is amended by striking ''section 5092'' and inserting ''section 5052(d)''.

(16) Section 5671 of such Code is amended by striking ''or 5091''.

(17)(A) Part V of subchapter J of chapter 51 of such Code is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 of such Code are moved to subchapter D of chapter 52 of such Code, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking ''this part'' each place it appears and inserting ''this subchapter''.

(B) Section 5732 of such Code, as redesignated by subparagraph (A), is amended by striking ''(except the tax imposed by section 5131)'' each place it appears.

(C) Subsection (c) of section 5733 of such Code, as redesignated by subparagraph (A), is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(D) The table of sections for subchapter D of chapter 52 of such Code is amended by adding at the end thereof the following:

''Sec. 5732. Payment of tax.

''Sec. 5733. Provisions relating to liability for occupational taxes.

''Sec. 5734. Application of State laws.''

(E) Section 5731 of such Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 of such Code is amended by striking ''section 5142'' and inserting ''section 5732''.

(20) Paragraph (1) of section 7652(g) of such Code is amended—

(A) by striking ''subpart F'' and inserting ''subpart B'', and

(B) by striking ''section 5131(a)'' and inserting ''section 5111(a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, but shall not apply to taxes imposed for periods before such date.

Mr. BUNNING. Mr. President, I am happy to join my colleague, Senator BAUCUS, in the introduction of legislation to repeal the Special Occupational Tax on the sale of alcoholic beverages.

This is an unfair tax imposed on all businesses that manufacture, distribute or sell alcohol products. It has a particularly egregious impact on the Nation's small businesses—the ''Mom and Pop'' convenience stores, the local bowling alleys, the small sandwich shop, the seasonal bait shop, and the community lodges. This regressive tax imposes the same tax on little businesses and large businesses. The tax is levied as a fixed amount per location—$250 for retailers, $500 for wholesalers, and $1,000 for vinters and distillers—with no adjustment for the size of a business. Thus, a family which owns two small convenience stores will pay twice as much as a large one-location ''super'' party store. This tax results in small retail outlets paying a larger percentage of their revenue towards this tax. In addition, the tax is not prorated, meaning that seasonal businesses such as bait shops or marinas that are open for three months a year will pay the same rate as businesses that are open year-around.

Largely due to the negative impact of this tax on small businesses, there has been strong bi-partisan support for its repeal in both the Senate and the House. The effectiveness of the tax—which is traditionally quite expensive to administer—has been found to be flawed by the General Accounting Office in several examinations. In a 2001 study on the simplification of the Federal tax system, the Joint Committee on Taxation recommended the repeal of the Special Occupancy Tax on alcohol. The Joint Committee found that the tax is in the nature of a business license fee and serves no tax policy purpose.

I hope my colleagues will join Senator BAUCUS and me in repealing this burdensome tax once and for all.

By Mr. DOMENICI (for himself, Mrs. LINCOLN, Mr. ROCKEFELLER, and Mr. THOMAS):

S. 275. A bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the medicare program of 1; to the Committee on Finance.

Mr. DOMENICI. Mr. President, I rise today with my friends Senator LINCOLN, Senator ROCKEFELLER, and Senator THOMAS to introduce the ''Medicare Access Equity Act of 2003,'' a bill to address the inequality that exists in Medicare reimbursement levels to urban and rural physicians.

Nothing is more important to our families than accessible and available health care. When we become ill and need treatment, we must turn to our doctors for help. But, imagine this, a hospital filled with the latest technology, and no doctors to administer treatment.

Does this sound ridiculous? It's not. Rural patients often have difficulty obtaining timely care due to a shortage of physicians, and, the problem I have described is not just occurring in my home State of New Mexico, forty-one other States are experiencing similar problems because of a common set of rules and procedures.

In most rural areas, Federal policy undermines a doctor's ability to see Medicare patients by establishing disparity in reimbursement levels. Rural physicians are among the lowest Medicare dollar reimbursement recipients in the country, and I submit that this is the reason these areas cannot effectively recruit and retain their physicians.

Medicare payments for physician services are based upon a fee schedule, intended to relate payments for a given service to the actual resources used in providing that service. One component of this fee schedule is ''physician work.'' CMS defines ''physician work'' as the amount of time, skill and intensity necessary to provide service.

Each component of the fee schedule is multiplied by a geographic index; designed to adjust for variations in cost. The geographic index as it relates to ''physician work'' is lower in rural areas than in metropolitan/urban areas. Thus, although rural physicians put in as much or even more time, skill, and intensity into their work as physicians in metropolitan/urban areas; rural physicians are paid less for their work.

This practice is unfair and it is discriminatory. There is no reason doctors in Albuquerque, NM should be paid less for their time than doctors in New

York City. Doctors should be valued equally, irrespective of geography.

The ''Medicare Access Equity Act of 2003'' fixes this problem. The Bill creates a more equitable Medicare reimbursement formula for doctors in 56 different fee schedule areas in 42 different States. It continues to apply the current formula to determine geographic index as it relates to physician work. However, once the calculation has been completed, The Secretary will increase the work geographic index to one for any locality for which such index is below one. Those fee schedule areas that are currently at or above one will not be affected by this legislation.

Our Bill builds upon the simple proposition that increased Medicare Physician reimbursements improve patient access to care and the ability of states to recruit and retain physicians. If Medicare physician reimbursement rates are raised, patients will be the ultimate beneficiaries.

Thank you and I look forward to working with my colleagues Senator LINCOLN, Senator ROCKEFELLER, and Senator THOMAS on this very important issue.

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. 375

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Access Equity Act of 2003''.

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

(1) Americans have paid taxes in to the medicare program equally across the country and every American should have access to quality health care.

(2) There is a national market for health care providers.

(3) Increasingly, private insurance companies tie their reimbursement rates to those paid by medicare.

(4) The physician fee schedule formula for medicare currently includes several adjustments for variable costs throughout the nation. While it is appropriate for the cost of running a practice to reflect overhead differences, physicians should not be compensated for their time differently based on where they live.

(5) Medicare beneficiaries pay the same part B premium regardless of location which forces subsidization of higher reimbursement areas by seniors in lower reimbursement areas without any corresponding benefit.

(6) Areas of the country that currently receive the lowest reimbursement from medicare are often the same areas that are experiencing the greatest shortage of physicians. Attracting more physicians to these areas cannot be achieved without greater equity in medicare reimbursement.

SEC. 2. ESTABLISHMENT OF FLOOR ON WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

''(E) FLOOR AT 1.0 ON WORK GEOGRAPHIC INDICES.—After calculating the work geographic indices in subparagraph (A)(iii), for purposes of payment for services furnished on or after January 1, 2004, the Secretary shall increase the work geographic index to 1.00 for any locality for which such geographic index is less than 1.00.''.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator PETE DOMENICI today in introducing the ''Medicare Access Equity Act of 2003.''

This important legislation will significantly help rural physicians in Arkansas and across the country keep their doors open to Medicare beneficiaries. By correcting a disparity in the Medicare physician fee schedule, Medicare will pay rural physicians more fairly for their individual effort in treating Medicare patients.

In my home State of Arkansas, 60 percent of seniors live in rural areas. Consequently, Medicare patients make up a large percentage of a rural physician's practice.

It is simply unfair that current Federal policy doesn't value physician work in all areas, urban and rural, in the same way. Because the component of the fee schedule that relates to physician work is multiplied by a geographic indicator adjusting for variants in cost, Medicare payment policy devalues the amount of time and skill that rural physicians spend in providing medical services.

I believe that work is work, regardless of where it is performed. It takes the same amount of time and skill for a physician in Pea Ridge, AR to treat a wound or diagnose a patient as a physician in Los Angeles, CA. It is time to correct this inequity.

The Medicare Access Equity Act does this by revising the geographic practice cost indices GPCI, to establish a minimum index of 1 for the ''physician work'' component. The bill applies the current formula to determine physician work GPCIs, but if a GPCI is calculated to be less than 1, the Secretary of Health and Human Services will increase it to 1.

This is critical to my home State of Arkansas, where the physician work GPCI is currently 0.953, the sixth lowest GPCI in the country. Increasing Arkansas' work GPCI to 1 will automatically pump more money to rural physicians in Arkansas, where many may begin to close their doors due to the rising costs of providing health care.

It is my hope that Senator DOMENICI and I, with help from the Senate Rural Health Caucus, can pass this important legislation as part of any Medicare reform we consider this year. Fair reimbursement is key to ensuring that rural Americans retain the quality health care they receive from their doctors.

By Ms. LANDRIEU (for herself, Mr. BREAUX, Mr. COCHRAN, Mr. JOHNSON, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. REID, Mr. SANTORUM, Mr. DURBIN, Mr. CHAFEE, Mr. FEINGOLD, Mr. LIEBERMAN, Ms. STABENOW, and Mr. MILLER):

S. 377. A bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. Mr. President, I rise today to introduce legislation to pay tribute to one of our Nation's most prominent individuals, Dr. Martin Luther King, Jr. The Martin Luther King, Jr. Commemorative Coin Act of 2003 instructs the Secretary of the Treasury to mint coins to recognize Dr. King's contribution to the people of the United States. Revenues from the surcharge on the coin would go to the Library of Congress to purchase and maintain historical documents and other materials associated with the life and legacy of Martin Luther King, Jr. This honor is long overdue.

His contributions to our Nation are well known and well documented. From 1955 when he helped lead the Montgomery Boycott to his death at the hands of an assassin in 1968, Dr. King dedicated his life to the cause of civil rights. In those 13 years, he was jailed several times, got cursed at and stoned by mobs, reviled by racist attacks in the South. Civil rights marches for freedoms we take for granted today like the right to vote or drink from the same water fountain, were met with police dogs and fire hoses.

Honoring Dr. King also means honoring those local leaders in the civil rights struggle who kept Dr. King's vision alive at the grassroots. In my particular home State of Louisiana, Rev. Dr. T.J. Jemison led a successful bus boycott in our State capital Baton Rouge. He became an advisor to Dr. King during the Montgomery Bus boycott. Many of these local leaders faced constant danger at home. One Louisianan, Dr. C.O. Simpkins of Shreveport had his home bombed simply because he dared to stand by Dr. King and demand that the buses in Shreveport be integrated.

But Dr. King urged us to fight hate with love, quell violence with peace, and to replace ignorance with understanding. He believed in a higher calling for America. In his famous ''I Have a Dream'' speech at the Lincoln Memorial in 1963, he called on America to live up to its creed, that all men were created equal. America heeded his call by passing landmark civil rights legislation in 1958 and 1964. For his work, he received the Novel Peace Prize in 1964. At 35 years old, Dr. King was the youngest recipient of the Peace Prize.

Today, our Nation is a better place than it was just 40 years ago. It is truly remarkable how much this nation has changed in the lifetimes of virtually everyone currently serving in the Senate. Our nation has made great strides forward, but race relations in our country are not perfect. But we are working to get there.

A nineteenth century rabbi named Zadok Rabinwitz said that ''A man's

dreams are an index to his greatness.'' Dr. King had a dream. His dream is becoming our nation's reality. By any measure his dreams were great and they made a great Nation even greater. I urge my colleagues to support the Martin Luther King, Jr. Commemorative Coin Act of 2003.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. CONRAD, Mr. BAUCUS, Mr. JOHNSON, and Mr. KOHL):

S. 378. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, our tribal colleges and universities have come to play a critically important role in educating Native Americans across the country. For more than 30 years, these institutions have proven instrumental in providing a quality education for those who had previously been failed by our mainstream educational system. Before the tribal college movement began, only six or seven out of 100 Native American students attended college. Of those few, only one or two would graduate with a degree. Since these institutions have curricula that is culturally relevant and is often focused on a tribe's particular philosophy, culture, language and economic needs, they have a high success rate in educating Native American people.

I had the honor today of meeting with students, faculty and presidents from South Dakota's tribal colleges to talk about the educational needs of Native Americans and the role tribal colleges play in strengthening tribal communities. It, like so many of the meetings I have had with representatives of tribal colleges, was a fascinating conversation. I am consistently impressed by the enduring spirit, sense of community and hope for a better quality of life that these institutions support. After meeting these students and educators, I have no doubt that the future of Indian Country is in good hands.

The results of a tribal college education are impressive. Recent studies show that 91 percent of 1998 tribal college and university graduates are working or pursuing additional education one year after graduating. In addition, the unemployment rate of recently polled tribal college graduates was 15 percent, compared to 55 percent on many reservations overall.

While tribal colleges and universities have been highly successful in helping Native Americans obtain a higher education, many challenges remain to ensure the future success of these institutions. These schools rely heavily on Federal resources to provide educational opportunities for all students. As a result, I strongly support efforts to provide additional funding to these colleges through the Interior, Agriculture and Labor, Health and Human Services, and Education Appropriations bills.

In addition to resource constraints, administrators have expressed a particular frustration over the difficulty they experience in attracting qualified individuals to teach at tribal colleges. Geographic isolation and low faculty salaries have made recruitment and retention particularly difficult for many of these schools. This problem is increasing as enrollment rises.

That is why I am introducing the Tribal College and University Teacher Loan Forgiveness Act. This legislation will provide loan forgiveness to individuals who commit to teach for up to five years in one of the 34 tribal colleges nationwide. Individuals who have Perkins, Direct, or Guaranteed loans may qualify to receive up to $15,000 in loan forgiveness. This program will provide these schools extra help in attracting qualified teachers, and thus help ensure that deserving students receive a high quality education.

This measure will benefit individual students and their communities. By providing greater opportunities for Native American students to develop skills and expertise, this bill will spur economic growth and help bring prosperity and self-sufficiency to communities that desperately need it. Native Americans and the tribal college system deserve nothing less. I believe our responsibility was probably best summed up by one of my state's greatest leaders, Sitting Bull. He once said, ''Let us put our minds together and see what life we can make for our children.''

I am pleased that Senator's BAUCUS, BINGAMAN, CONRAD, JOHNSON, and KOHL are original cosponsors of this bill, and I look forward to working with my colleagues to pass this important legislation.

I ask unanimous consent that the text of the Tribal College and University Teacher Loan Forgiveness Act be printed in the RECORD.

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

S. 378

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

SECTION 1. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

(a) SHORT TITLE.—This Act may be cited as the ''Tribal Colleges and Universities Teacher Loan Forgiveness Act''.

(b) PERKINS LOANS.—

(1) AMENDMENT.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (H), by striking ''or'' after the semicolon;

(ii) in subparagraph (I), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(J) as a full-time teacher at a Tribal College or University as defined in section 316(b).''; and

(B) in paragraph (3)(A)(i), by striking ''or (I)'' and inserting ''(I), or (J)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for service performed during academic year 1998–1999 and succeeding academic years, notwithstanding any contrary provision of the promissory note under which a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) was made.

(c) FFEL AND DIRECT LOANS.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

''SEC. 493C. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (b), for any new borrower on or after the date of enactment of the Tribal Colleges and Universities Teacher Loan Forgiveness Act, who—

''(1) has been employed as a full-time teacher at a Tribal College or University as defined in section 316(b); and

''(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

''(b) QUALIFIED LOAN AMOUNTS.—

''(1) PERCENTAGES.—Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—

''(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of the Tribal Colleges and Universities Teacher Loan Forgiveness Act to a student under part B or D, for the first or second year of employment described in subsection (a)(1);

''(B) 20 percent of such total amount, for the third or fourth year of such employment; and

''(C) 30 percent of such total amount, for the fifth year of such employment.

''(2) MAXIMUM.—The Secretary shall not repay or cancel under this section more than $15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

''(3) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (a), as determined in accordance with regulations prescribed by the Secretary.

''(c) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

''(e) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

''(f) DEFINITION.—For purposes of this section, the term 'year', when applied to employment as a teacher, means an academic year as defined by the Secretary.''.

SEC. 2. AMOUNTS FORGIVEN NOT TREATED AS GROSS INCOME.

The amount of any loan that is assumed or canceled under an amendment made by this Act shall not, consistent with section 108(f) of the Internal Revenue Code of 1986, be treated as gross income for Federal income tax purposes.

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

S. 379. A bill to amend title XVIII of the Social Security Act to improve the medicare incentive payment program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators THOMAS, LINCOLN, and JOHNSON entitled ''The Medicare Incentive Payment Program Improvement Act of 2003'' is designed to improve the flow of needed bonus payments to physicians serving Medicare patients in Health Professions Shortage Areas, HPSA.

The Medicare Incentive Payment Program, MIPP, created by the Omnibus Budget Reconciliation Act of 1987, was meant to assist physicians in defraying the higher costs and burdens of serving Medicare patients in shortage areas. Rural areas are know to suffer from physician shortages, both primary care and specialty physicians. In fact, even though 20 percent of America lives in a rural area, less than 11 percent of physicians in the U.S., practice in rural areas.

In my own State, the ongoing loss of physicians from underserved areas has affected both primary care and in particular, specialty services. In many areas, the shortage of specialists exceeds that of the primary care physicians. The New Mexico Health Policy Commission reported in its year 2000 report that 22 percent of residents in Los Alamos and Santa Fe were unable to receive needed specialist care.

While the national ratio of physicians per population is 198 doctors per 100,000 persons, New Mexico ranks 33rd in the country with only 170 physicians per 100,000 population. We are not in a position to ''grow our own doctors'' either as New Mexico ranks 37th among the 46 States with medical schools in graduating physicians per capita.

New Mexico, like many other States with large numbers health profession shortage areas, or HPSAs, must rely on its ability to recruit and retain physicians in underserved areas to meet the health care needs of its citizens. It was the original intent of the MIPP to do this, by allowing for physicians in underserved areas to receive an additional 10 percent add-on in payments for services rendered. These 10 percent ''bonuses'' are meant to be an essential component in our ongoing effort to ensure Medicare beneficiaries access to medical services, particularly in underserved areas.

Unfortunately, the Medicare Incentive Payment Program has fared poorly, with few providers choosing to receive the payments. In fact, the total annual physician payments have never exceeded $100 million, because of a series of disincentives in the legislation.

The program requires a provider to do a number of things to obtain the bonus payments. First, providers must be aware that MIPP payments are available to them. Many providers are unaware of the program's existence. Next, physicians must find out if the patient's medical care occurred in a shortage area. Following this, a unique code must be attached to the Medicare claim, which is then forwarded to the carrier. Finally, after all these steps, providers are subjected to automatic Medicare audits, just for applying for the very payments for which they are eligible.

Providers committed to serving Medicare patients in underserved areas deserve the support assured by the original legislation's intent.

The Medicare Incentive Payment Improvement Act of 2003 addresses and improves shortcomings in the original legislation by: Placing the burden for determining the bonus eligibility on the Medicare carrier. Eliminating automatic provider audits. Directing the Center for Medicare and Medicaid Services to establish a Medicare Incentive Payment Program Educational Program for Providers. Establishing an ongoing analysis of the programs, ability to improve Medicare beneficiaries' access to physician services. Continue to provide the original 10 percent add-on bonus for Part B physician payments in Health Provider Shortage Areas.

Medicare carriers are the logical arbiters to determine whether physician services occurred in a shortage area. Physicians, already overworked, lack sufficient time, resources and training to research and determine whether a service was provided in a HPSA. By placing the responsibility on carriers, with their sophisticated information systems, the physician's administrative burdens will be reduced.

The automatic audits triggered by this program, which are costly, time intensive, and unwarranted, will be lifted under our legislation. By placing the responsibility on carriers to determine payment eligibility the need for provider audits is eliminated.

While the MIPP program is intended to improve beneficiaries' access to physician services, there is no measure of the program's effect on physician availability. The legislation offered today directs CMS to perform an ongoing analysis as to whether these payments actually do improve beneficiaries' access to physician services.

I believe these improvements, in addition to others listed above, will greatly improve patient's access to care.

The following organizations have expressed support for this legislation: American College of Physicians/American Society of Internal Medicine, and the National Rural Health Association.

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. 3

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 Incentive Payment Program Improvement Act of 2003''.

SEC. 2. PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.

Section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)) is amended—

(1) by inserting ''(1)'' after ''(m)''; and

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

''(2) The Secretary shall establish procedures under which the Secretary, and not the physician furnishing the service, is responsible for determining when a payment is required to be made under paragraph (1).''.

SEC. 3. EDUCATIONAL PROGRAM REGARDING THE MEDICARE INCENTIVE PAYMENT PROGRAM.

The Secretary of Health and Human Services shall establish and implement an ongoing educational program to provide education to physicians under the medicare program on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)).

SEC. 4. ONGOING STUDY AND ANNUAL REPORT ON THE MEDICARE INCENTIVE PAYMENT PROGRAM.

(a) ONGOING STUDY.—The Secretary of Health and Human Services shall conduct an ongoing study on the medicare incentive payment program under section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)). Such study shall focus on whether such program increases the access of medicare beneficiaries who reside in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) as a health professional shortage area to physicians' services under the medicare program.

(b) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

By Ms. COLLINS (for herself, Mr. CARPER, and Mr. BROWNBACK):

S. 380. A bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today, I rise to offer to the Senate some good news for our mailers and, indeed, anyone who uses the United States Postal Service. The USPS, which has been losing significant amounts of money in recent years despite repeated increases in postage rates, has determined that its finances are in better order than previously thought. If Congress acts expeditiously on legislation that I am introducing today along with my colleague, Senator CARPER, the Postal Service will avoid an imminent rate hike.

In recent years, the United States Postal Service has been raising postal rates at a rapid pace. When the USPS last raised rates in 2002, it was the third such rate increase during an 18-month period. Such steep, irregular rate increases make it very difficult for businesses to plan for their postal costs. This is a particular problem for

catalog companies and magazine publishers, which set their prices in advance based on assumptions about postal rates. Mailing costs for some smaller catalog businesses, I am told, now can exceed production costs.

In so many ways, postage rate increases have a significant economic impact. As rates increase, so do the costs Americans bear to send letters, mail packages, and pay their bills. Rate increases also raise the cost of goods, which, of course, reflect not only the cost to ship but also the cost to advertise by mail.

But rate increases reflect the price of maintaining an ever-expanding postal network and the infrastructure to sustain it. Each year, the Postal Service adds 1.7 million new addresses. This equates to 4,800 new letter carriers making deliveries to over 513 million new delivery stops each year, all while maintaining one of the lowest first-class letter rates in the world.

In addition to providing a critical service to individual postal patrons, the Postal Service is a powerful economic engine. The USPS is the eleventh largest enterprise in the Nation with $66 billion in annual revenue, more than Microsoft, McDonald's and Coca Cola combined. While the Postal Service itself employs more than 700,000 career employees, it is also the linchpin of a $900 billion mailing industry that employs nine million Americans in fields as diverse as direct mailing, printing and paper production.

That is why the deteriorating state of the United States Postal Service's finances has been a source of great concern to many of us. After several years of large losses, the USPS has been slowly approaching its statutory borrowing limit of $15 billion.

A few months ago, however, the Office of Personnel Management discovered that the USPS will dramatically over-fund its contributions to the Civil Service Retirement Fund unless the law is changed. After having based the Postal Service's annual contributions on the assumption that it had an actuarial deficit of $32 billion, OPM discovered instead that the USPS's CSRS deficit was actually only $5 billion. The difference is primarily due to higher than expected yields on pension investments by the Department of the Treasury. If the USPS continues to fund the CSRS at its current pace, it will overfund its CSRS liability by $78 billion.

If Congress approves the changes to the payment schedule as my bill provides, the Postal Service's CSRS retirement expense would be reduced by $2.9 billion in fiscal year 2003 and another $2.8 billion in fiscal year 2004. The USPS would be able to reduce its debt by more than $3 billion in fiscal year 2003, and anticipated rate increases would be delayed until at least 2006, ushering in an era of stable and predictable postal rates.

My initial response upon hearing this good news was one of pleasant surprise but mixed, I admit, with a healthy dose of skepticism. As the old saying goes, ''if it sounds too good to be true, it probably is.'' However, the Office of Management and Budget, as well as the U.S. Treasury Department, have confirmed OPM's analysis. Further, having spoken with experts outside the government as well, I have become satisfied that this situation represents a rare exception to the rule.

That is why Senator CARPER and I today introduce the Postal Civil Service Retirement System Funding Act of 2003. Our bill will correct the statutory funding mechanism for the Civil Service Retirement System, CSRS. This legislation is necessary to prevent the overpayment of retirement contributions by the U.S. Postal Service. Most important, this bill directs OPM to determine a new amortization schedule that will pay off the Postal Service's existing unfunded CSRS liability of $5 billion.

In addition, the legislation requires that the savings resulting from this Act be used to reduce the postal debt in a manner that the Secretary of Treasury shall specify. It also expresses the sense of Congress that the Postal Service should use these savings to fulfill its commitment to hold postal rates unchanged until at least 2006, to begin to pay a portion of their massive unfunded health care liabilities, and that the savings not be used to pay bonuses to Postal Service executives.

The USPS needs other changes as well, something acknowledged by everyone inside and outside the Postal Service. I was pleased that President Bush appointed a Commission on the U.S. Postal Service that is modeled along the principles outlined in legislation I introduced last year. I am hopeful that when the Commission reports this summer, it will provide us with a blueprint to ensure that our postal system is ready to serve twenty-first century America as ably as it has served us in the past. I look forward to receiving the Commission's report and any recommendations for legislation it may include.

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. 380

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 ''Postal Civil Service Retirement System Funding Reform Act of 2003''.

SEC. 2. CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) in paragraph (17)—

(A) by striking ''normal cost'' the first place that term appears and inserting ''normal cost percentage''; and

(B) by inserting ''and standards (using dynamic assumptions)'' after ''practice'';

(2) by striking paragraph (18) and inserting the following:

''(18) 'Fund balance'—

''(A) means the current net assets of the Fund available for payment of benefits, as determined by the Office in accordance with appropriate accounting standards; and

''(B) shall not include any amount attributable to—

''(i) the Federal Employees' Retirement System; or

''(ii) contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 by or on behalf of any individual who became subject to the Federal Employees' Retirement System;'';

(3) in paragraph (27), by striking ''and'' at the end;

(4) in paragraph (28), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(29) 'dynamic assumptions' means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future—

''(A) investment yields;

''(B) increases in rates of basic pay; and

''(C) rates of price inflation.''.

(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended by striking the matter following the section heading through paragraph (1) and inserting the following:

''(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate judge, Court of Federal Claims judge, member of the Capitol Police, member of the Supreme Court Police, or nuclear materials courier, as the case may be, the percentage of basic pay applicable under subsection (c).

''(B)(i) Except in the case of an employee of the United States Postal Service, an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

''(ii) In the case of an employee of the United States Postal Service, an amount shall be contributed from the appropriation or fund used to pay the employee equal to the difference between—

''(I) the product of—

''(aa) the basic pay of that employee; and

''(bb) the normal cost percentage applicable to the employee category of that employee under paragraph (1)(A); and

''(II) the product of—

''(aa) the basic pay of that employee; and

''(bb) the percentage applicable to that employee under subsection (c) deducted from basic pay under paragraph (1)(A).''.

(c) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—

(1) IN GENERAL.—Section 8348 of title 5, United States Code, is amended by striking subsection (h) and inserting the following:

''(h)(1)(A) In this subsection, the term 'Postal supplemental liability' means the estimated excess, as determined by the Office of Personnel Management, of the difference between—

''(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of

current or former employees of the United States Postal Service; and

''(ii) the sum of—

''(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

''(II) the actuarial present value of the future contributions to be made under section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;

''(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and employees of the United States Postal Service, including earnings on those payments; and

''(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

''(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

''(ii) Military service included in the computation under clause (i) shall not be included in computation of the payment required under subsection (g)(2).

''(2)(A) Not later than June 30, 2004, the Office of Personnel Management shall determine the Postal supplemental liability, as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

''(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

''(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

''(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

''(E) The United States Postal Service shall pay the amounts determined under this paragraph for deposit in the Fund, with payments due not later than the date scheduled by the Office.

''(3) Notwithstanding any other provision of law, in computing the amount of any payment under any provision other than this subsection that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 8334 of title 5, United States Code, is amended by striking subsection (m).

(d) OTHER PAYMENTS.—

(1) IN GENERAL.—Section 7101(c) of the Omnibus Budget Reconciliation Act of 1990 (5 U.S.C. 8348 note; Public Law 101–508; 104 Stat. 1388–331) is repealed.

(2) EFFECT ON PRIOR PAYMENTS.—The repeal under paragraph (1) shall have no effect on payments made under the repealed provisions before the date of enactment of this Act.

SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act shall be used to reduce the postal debt to such extent and in such manner as the Secretary of the Treasury shall specify, consistent with succeeding provisions of this section.

(b) AMOUNTS SAVED.—

(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management in accordance with paragraph (2).

(2) METHODOLOGY.—Not later than July 31, 2003, for fiscal year 2003, and October 1 of the fiscal year before each fiscal year beginning after September 30, 2003, and before the date specified in paragraph (4), the Office of Personnel Management shall—

(A) formulate a plan specifically enumerating the methods by which the Office shall make its computations under paragraph (1); and

(B) submit such plan to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(3) REQUIREMENTS.—Each such plan shall be formulated in consultation with the Postal Service and shall include the opportunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.

(4) DURATION.—Nothing in this subsection or subsection (a) shall be considered to apply with respect to any fiscal year beginning on or after October 1, 2007.

(c) REPORTING REQUIREMENT.—The Postal Service shall include in each report which is rendered under section 2402 of title 39, United States Code, and which relates to any period after the date of the enactment of this Act and before the date specified in subsection (b)(4), the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (a), during the period covered by such report.

(d) POSTAL DEBT DEFINED.—For purposes of this section, the term ''postal debt'' means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.

(e) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least 2006;

(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to in paragraph (1) should be used to address those unfunded obligations; and

(3) none of the savings referred to in paragraph (1) should be used to pay bonuses to Postal Service executives.

(f) REPORT RELATING TO UNFUNDED HEALTHCARE COSTS.—

(1) IN GENERAL.—The United States Postal Service shall, by December 31, 2003, in consultation with the General Accounting Office, prepare and submit to the President and the Congress a report describing how the Postal Service proposes to address its obligations relating to unfunded postretirement healthcare costs of current and former postal employees.

(2) PRESIDENT'S COMMISSION.—In preparing its report under this subsection, the Postal Service should consider the report of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

(3) GAO REVIEW AND REPORT.—Not later than 30 days after the Postal Service submits its report pursuant to paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of such report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(g) DETERMINATION AND DISPOSITION OF SURPLUS.—

(1) IN GENERAL.—If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a ''surplus'')—

(A) the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and

(B) the Postmaster General shall submit to the Congress a report describing how the Postal Service proposes that such surplus be used, including a draft of any legislation that might be necessary.

(2) DETERMINATION DATE.—The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—Section 8334(a)(1)(B)(ii) of title 5, United States Code (as added by section 2(b) of this Act), shall apply only with respect to pay periods beginning on or after the date of enactment of this Act.

Mr. CARPER. I am pleased today to be able to join my friend from Maine, the chair of the Governmental Affairs Committee, in introducing the Postal Civil Service Retirement System Funding Reform Act of 2003. This bill is of vital interest to the future of the Postal Service and enjoys the strong support of postal management, postal employees and postal customers.

According to OPM and GAO, the Postal Service will significantly overfund its obligations to its employees enrolled in the Civil Service Retirement System if it continues paying at the current rate. The Reform Act addresses this by reducing the amount of money the Postal Service is required to pay into CSRS each year to reflect a more accurate estimate of its obligations that has been prepared by OPM. In the current fiscal year, this will reduce the Postal Service's annual CSRS

payment by nearly $3 billion. These savings, and savings of similar size projected for future years, will be used to retire a portion of the Postal Service's $11.1 billion debt to Treasury. The Postal Service had previously only been able to budget $800 million for debt reduction this fiscal year.

Most importantly, the savings the Postal Service will enjoy if the Reform Act becomes law will allow it to hold the price of postage steady until at least 2006. This is important because, while what the Postal Service charges for its services is still a bargain when compared to the prices charged by most foreign posts, postal customers have absorbed multiple rate increases in recent months that have raised the price of postage by more than the rate of inflation. At a time when the economy is weak and modes of communication like e-mail and electronic bill pay are more popular than ever, another rate increase this year could be a disaster for the Postal Service. If the price of postage goes up again in 2004, as I expect it to if the Reform Act is not enacted, the Postal Service will likely lose a good deal of business. Companies will be more aggressive in encouraging their customers to communicate with them online. Large mailers will reduce volume and let workers go. Everyday users of the mail will be forced to bear another large spike in the price of a first-class stamp. All of this would come at a time when the Postal Service is predicting an increase in volume for the first time in quite a while. The Reform Act will keep mail in the system and give mailers the opportunity to increase the amount of business they do with the Postal Service.

The Reform Act, however, does not remove the Postal Service's obligation to continue on the modernization program begun under Postmaster General Jack Potter. General Potter came on the job at a difficult time for the Postal Service but has led them in a successful effort to streamline operations, taking billions of dollars in costs out of the system without hurting service. That process needs to continue.

The Reform Act also does not eliminate the need for the Postal Service to deal with the future cost of retiree health benefits. These costs are estimated at about $50 billion. The Postal Service funds them now on a pay-as-you-go basis, meaning they are not reflected in the price of postage today. If not addressed soon, these costs will be pushed on to future ratepayers, forcing the Postal Service to begin raising rates dramatically once the baby boom generation begins to retire. Some of the savings the Postal Service will enjoy if the Reform Act becomes law should be used to prevent this from happening.

Finally, the Reform Act does not remove Congress's obligation to enact postal reform legislation this year that will help the Postal Service and General Potter continue the transformation necessary to make the Postal Service viable in the electronic age. President Bush's Commission on the United States Postal Service will release a set of postal reform proposals this summer that I hope will offer some fair, balanced recommendations that we can use to begin drafting legislation. I plan to put forward a proposal of my own this year that maintains universal service and current delivery standards while giving the Postal Service the kind of flexibility its private sector competitors have to set prices and cut costs. I look forward to working with Chairman Collins and all of my colleagues on the Governmental Affairs Committee in getting a postal reform bill signed into law during the 108th Congress.

In closing, I would like to briefly address some of the similarities between the Reform Act and the Managerial Flexibility Act President Bush proposed during the 107th Congress and make an important distinction between the two proposals. Like the Managerial Flexibility Act would have done for all Federal agencies, the Reform Act makes the Postal Service responsible for benefits due to its CSRS enrollees as a result of prior military service and amortizes its unfunded CSRS obligations over a period of 40 years. The Managerial Flexibility Act also would have required Federal agencies to begin funding their retiree health benefits on a cost accrual basis, something the Postal Service should be able to do if the Reform Act becomes law and it begins to see some savings. This kind of accounting makes sense in the case of the Postal Service, which by law must be self-sufficient and must pay its employees' pension and health costs through the price of postage. The utility of requiring all Federal agencies to account for their employees' retirement costs in this way is not clear to me. As CBO points out in its January 23rd evaluation of the version of the Reform Act proposed by OPM late last year, recognizing the accrual cost of agency retirement benefits by mandating payments between agencies and the Treasury does not provide the government with the resources necessary to make future payments when they come due and does not lessen the burden on future taxpayers to pay them. In the case of the Postal Service, however, the kind of accounting contained in the Managerial Flexibility Act will give postal customers, who must plan how much they mail in future years based on how much they anticipate postage will cost, a more realistic idea of what the Postal Service's future costs of doing business will be.

If the Reform Act is not enacted before April 1st, the Postal Service will need to assume that they will be required to make the large CSRS payment required of them under current law, forcing them to file the rate case they have been preparing. This will force mailers to begin litigating the case, meaning they will begin spending resources paying lawyers instead using the mail. I call on my colleagues to act quickly on the Reform Act to prevent this from happening.

By Mr. DORGAN (for himself, Mr. CAMPBELL, Mr. BINGAMAN, Mr. INOUYE, Ms. LANDRIEU, Mr. JOHNSON, Ms. CANTWELL, Mr. WARNER, Mrs. LINCOLN, and Mr. TALENT):

S. 382. A bill to amend title XVIII of the Social Security Act to provide for coverage of cardiovascular screening tests under the medicare program; to the Committee on Finance.

Mr. DORGAN. Mr. President, I am pleased to be introducing today the Medicare Cholesterol Screening Coverage Act of 2003, along with my colleagues, Senators CAMPBELL, BINGAMAN, INOUYE, LINCOLN, LANDRIEU, WARNER, JOHNSON, CANTWELL and TALENT. Companion legislation is being introduced in the House of Representatives today by Representative DAVE CAMP and Representative WILLIAM JEFFERSON.

I think it is appropriate to be introducing this bill during ''American Heart Month.'' For the last 40 years, Congress and the President have recognized American Heart Month because of the need to continue the fight against heart disease—our country's #1 killer and a leading cause of disability. Cardiovascular diseases take an enormous human and financial toll on our Nation. Every 33 seconds, an American dies from cardiovascular disease. About 41 percent of deaths each year are from cardiovascular diseases—more than the next 6 leading causes of death combined. Adding cholesterol screening testing to the menu of preventive services already covered by Medicare is yet another step we can and should take in the fight against these insidious diseases.

Cardiovascular diseases account for one-third of all of Medicare's spending for hospitalizations. Yet the identification of one of the major, changeable risk factors for cardiovascular disease—high levels of cholesterol—is not covered by Medicare.

The National Heart, Lung, and Blood Institute and the American Heart Association recommend that all Americans over the age of 20 have their cholesterol levels tested at least once every five years. But when an American turns 65 and enters the Medicare program, their coverage for cholesterol screening stops. That is just not right.

Adding a cholesterol screening benefit to Medicare is a common-sense, cost-effective step. According to the Congressional Budget Office, this benefit would cost only $20 million a year—a small fraction of the $26 billion that Medicare spends each year for hospitalizations of patients with cardiovascular diseases.

I am pleased that language similar to my bill was included in S. 3018, bipartisan Medicare legislation introduced last fall by the leaders of the Finance

Committee, Senators GRASSLEY and BAUCUS. Unfortunately, however, the Senate did not act on this bill before adjourning last year.

I hope Congress will act soon to provide Medicare coverage of cholesterol screening, and I encourage my colleagues to cosponsor this bill.

Another way my colleagues can help in the fight against heart disease is by joining the Congressional Heart and Stroke Coalition. The Congressional Heart and Stroke Coalition was founded in 1996 and I am honored to serve as one of its co-founders and co-chairs. Since its inception, this bicameral, bipartisan Coalition has grown to nearly 200 Members.

Its purpose is to raise awareness among Congress and the public about heart attack, stroke, and other cardiovascular diseases and to support public policies to prevent, treat, and ultimately cure these diseases. I encourage those Members who have not already joined the Congressional Heart and Stroke Coalition to do so.

I look forward to working with my colleagues to add a cholesterol screening benefit for Medicare beneficiaries and to make progress in the fight against cardiovascular diseases.

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

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

S. 382

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 Cholesterol Screening Coverage Act of 2003''.

SEC. 2. COVERAGE OF CARDIOVASCULAR SCREENING TESTS.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V)(iii), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) cardiovascular screening tests (as defined in subsection (ww)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Cardiovascular Screening Tests

''(ww)(1) The term 'cardiovascular screening tests' means the following diagnostic tests for the early detection of cardiovascular disease:

''(A) Tests for the determination of cholesterol levels.

''(B) Tests for the determination of lipid levels of the blood.

''(C) Such other tests for cardiovascular disease as the Secretary may approve.

''(2)(A) Subject to subparagraph (B), the Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cardiovascular screening tests.

''(B) With respect to the frequency of cardiovascular screening tests approved by the Secretary under subparagraph (A), in no case may the frequency of such tests be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (H);

(2) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(J) in the case of a cardiovascular screening test (as defined in section 1861(ww)(1)), which is performed more frequently than is covered under section 1861(ww)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

By Ms. STABENOW.

S. 383. A bill to amend the Solid Waste Disposal Act to prohibit the importation of Canadian municipal solid waste without State consent; to the Commitment on Environment and Public Works.

Ms. STABENOW. Mr. President, I rise today to introduce a bill to address the growing problem of Canadian waste shipments to Michigan.

In 2001, Michigan imported almost 3.6 million tons of municipal solid waste, more than double the amount that was imported in 1999. This gives Michigan the unduly distinction of being the third largest dumping ground of waste in the United States.

My colleagues may be surprised to know that the biggest source of this waste was not another State, but our neighbor to north, Canada. More than half the waste that was shipped to Michigan in 2001 was from Ontario, Canada, and these imports are growing rapidly. On January 1, 2003, as another Ontario landfill closed its doors, the City of Toronto switched from shipping two-thirds of its trash, to shipping all of its trash—1.1 million tons—to a Michigan landfill. And this deal could last 20 years! Experts predict that soon there will be virtually no local disposal capacity in Ontario, which could mean even more waste being shipped across the border to Michigan.

Not only does this waste dramatically decrease Michigan's own landfill capacity, but it has a tremendous negative impact on Michigan's environment and the public health of citizens. Currently, Canadian municipal solid waste is sent to landfills in seven different Michigan counties—Genesee, Huron, Macomb, Monroe, Oakland, Washtenaw, and Wayne counties. Based on current usage statistics, the Michigan Department of Environmental Quality, DEQ, estimates that Michigan has capacity for 15–17 years of disposal in landfills. However, with the proposed dramatic increase in importation of waste, this capacity is less than 10 years. The Michigan DEQ estimates that for every five years of disposal of Canadian waste at the current usage volume, Michigan is losing a full year of landfill capacity. The Canadian waste also hampers the effectiveness of Michigan's State and local recycling efforts, since Ontario does not have a bottle law requiring recycling.

These Canadian waste shipments also present a threat to homeland security. Currently, 130 truckloads of waste come into Michigan each day from Canada. These trucks cross the Ambassador Bridge and Blue Water Bridge and travel through the busiest parts of Metro Detroit. In addition to causing traffic delays, and filling our air with the stench of exhaust and garbage, these trucks also present a security risk at our Michigan-Canadian border, since by their nature trucks full of garbage are harder for Customs agent to inspects then traditional cargo.

Last year, I joined with Senator LEVIN and Congressman DINGELL to introduce legislation to enforce the protections that Michigan is already entitled to which are contained in an international agreement between the United States and Canada. I continue to be supportive of this bill and I was proud to join as an original co-sponsor when it was reintroduced last month. However, with the recent landfill closings in Ontario, this problem has spiraled out of control.

That is why today I am introducing ''the Canadian Waste Import Ban Act of 2003.'' This bill would stop these shipments by placing an immediate federal ban on the importation of Canadian municipal solid waste. The ban will be in place until the EPA enforces ''the Agreement Concerning the Transboundary Movement of Hazardous Waste.'' Under this existing agreement, the EPA is supposed to receive notification of Canadian waste shipments, and then would have 30 days to consent or object to the shipment. Not only have these notification provisions not been enforced, but the EPA has indicated that they would not object to the municipal waste shipments.

In addition, the bill requires the EPA to Michigan's or any State's consent before receiving any shipment of Canadian municipal solid waste. In enforcing the agreement, the EPA must obtain the consent of the receiving State, before consenting to a Canadian municipal solid waste shipment. The EPA must also consider the impact of the shipment on homeland security, the environment, and public health.

This legislation will stop the importation of Canadian trash until Michigan residents are given the voice they deserve in deciding whether or not this waste should be sent to their landfills. We need to give the states a real voice in these decisions and my bill guarantees that the states through the EPA will get to decide whether or not they want to receive this Canadian waste. 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. 383

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 ''Canadian Waste Import Ban Act of 2003''.

SEC. 2. CANADIAN MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

"SEC. 4011. CANADIAN MUNICIPAL SOLID WASTE.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT.—The term 'Agreement' means—

"(A) the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, signed at Ottawa on October 28, 1986 (TIAS 11099) and amended on November 25, 1992; and

"(B) any regulations promulgated to implement and enforce that Agreement.

"(2) CANADIAN MUNICIPAL SOLID WASTE.—The term 'Canadian municipal solid waste' means municipal solid waste that is generated in Canada.

"(3) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'municipal solid waste' means—

"(i) material discarded for disposal by—

"(I) households (including single and multifamily residences); and

"(II) public lodgings such as hotels and motels; and

"(ii) material discarded for disposal that was generated by commercial, institutional, and industrial sources, to the extent that the material—

"(I)(aa) is essentially the same as material described in clause (i); or

"(bb) is collected and disposed of with material described in clause (i) as part of a normal municipal solid waste collection service; and

"(II) is not subject to regulation under subtitle C.

"(B) INCLUSIONS.—The term 'municipal solid waste' includes—

"(i) appliances;

"(ii) clothing;

"(iii) consumer product packaging;

"(iv) cosmetics;

"(v) debris resulting from construction, remodeling, repair, or demolition of a structure;

"(vi) disposable diapers;

"(vii) food containers made of glass or metal;

"(viii) food waste;

"(ix) household hazardous waste;

"(x) office supplies;

"(xi) paper; and

"(xii) yard waste.

"(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

"(i) solid waste identified or listed as a hazardous waste under section 3001, except for household hazardous waste;

"(ii) solid waste, including contaminated soil and debris, resulting from—

"(I) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604, 9606);

"(II) a response action taken under a State law with authorities comparable to the authorities contained in either of those sections; or

"(III) a corrective action taken under this Act;

"(iii) recyclable material—

"(I) that has been separated, at the source of the material, from waste destined for disposal; or

"(II) that has been managed separately from waste destined for disposal, including scrap rubber to be used as a fuel source;

"(iv) a material or product returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible potential reuse;

"(v) solid waste that is—

"(I) generated by an industrial facility; and

"(II) transported for the purpose of treatment, storage, or disposal to a facility (which facility is in compliance with applicable State and local land use and zoning laws and regulations) or facility unit—

"(aa) that is owned or operated by the generator of the waste;

"(bb) that is located on property owned by the generator of the waste or a company with which the generator is affiliated; or

"(cc) the capacity of which is contractually dedicated exclusively to a specific generator;

"(vi) medical waste that is segregated from or not mixed with solid waste;

"(vii) sewage sludge or residuals from a sewage treatment plant;

"(viii) combustion ash generated by a resource recovery facility or municipal incinerator; or

"(ix) waste from a manufacturing or processing (including pollution control) operation that is not essentially the same as waste normally generated by households.

"(b) BAN ON CANADIAN MUNICIPAL SOLID WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), until the date on which the Administrator promulgates regulations to implement and enforce the Agreement (including notice and consent provisions of the Agreement), no person may import into any State, and no solid waste management facility may accept, Canadian municipal solid waste for the purpose of disposal or incineration of the Canadian municipal solid waste.

"(2) ELECTION BY GOVERNOR.—The Governor of a State may elect to opt out of the ban under paragraph (1), and consent to the importation and acceptance by the State of Canadian municipal solid waste before the date specified in that paragraph, if the Governor submits to the Administrator a notice of that election by the Governor.

"(c) AUTHORITY OF ADMINISTRATOR.—

"(1) IN GENERAL.—Beginning immediately after the date of enactment of this section, the Administrator shall—

"(A) perform the functions of the Designated Authority of the United States described in the Agreement with respect to the importation and exportation of municipal solid waste under the Agreement; and

"(B) implement and enforce the Agreement (including notice and consent provisions of the Agreement).

"(2) CONSENT TO IMPORTATION.—In considering whether to consent to the importation of Canadian municipal solid waste under article 3(c) of the Agreement, the Administrator shall—

"(A) obtain the consent of each State into which the Canadian municipal solid waste is to be imported; and

"(B) consider the impact of the importation on homeland security, public health, and the environment.".

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following:

"Sec. 4011. Canadian municipal solid waste.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 55—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ms. SNOWE (for herself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Small Business and Entrepreneurship:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with jurisdiction under rules XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business and Entrepreneurship is authorized from March 1, 2003, through September 30, 2003, and October 1, 2003 through September 30, 2004, and October 1, 2004 through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department of agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed $1,215,913, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(i) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $2,139,332, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 292(i) of the Legislative Reorganization Act of 1946, as amended) and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2004 through February 28, 2005, expenses of the committee under this resolution shall not exceed $911,668, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee may report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, not later than February 28, 2003.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationary supplies purchased through the Keeper of the Stationary, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the