

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 1179. A bill to amend title XVIII of the Social Security Act to expand Medicare benefits to prevent, delay, and minimize the progression of chronic conditions, and develop national policies on effective chronic condition care, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I come to the floor today to introduce the Medicare Chronic Care Improvement Act of 2003. For the last three decades, the Medicare program has fulfilled our promise to care for older Americans who have spent a lifetime working and contributing to our Nation's economy. Currently, 41 million seniors depend on Medicare for critical health care assistance. Those seniors have been asking Congress for many years to strengthen Medicare. This Congress, we must respond by taking action. We must enact legislation this year that fills the gaps in Medicare.

When Congress and President Johnson designed the Medicare program in 1965, they could not have foreseen the health care system that exists today. New technology, advances in research and an aging population have changed both what beneficiaries need and the system that is responding to those needs. One of the unforeseen implications of these changes is a growing number of Americans living with chronic conditions.

In 2000, over 45 percent of Americans had a chronic condition. That number continues to grow and, by 2020, more than 48 percent or 157 million Americans, will have at least one chronic condition. Chronic conditions encompass an array of health conditions that are persistent, recurring, and cannot be cured. They include severely impairing conditions like Alzheimer's disease, congestive heart failure, chronic obstructive pulmonary disease, diabetes, depression, hypertension, and arthritis.

Treating serious and disabling chronic conditions is the highest cost and fastest growing segment of health care. People with chronic conditions represent 78 percent of all health care spending. These people are the heaviest users of home health care visits, prescriptions, physician visits, and inpatient stays.

As we grow older, the chances of developing a chronic condition increase. Thus, it should be no surprise that nearly 80 percent of Medicare beneficiaries have at least one chronic condition and two-thirds have two or more chronic conditions. However, the Medicare fee-for-service program does not currently cover many of the services needed to provide quality care to beneficiaries who are managing complex chronic conditions.

To meet the needs of these individuals, our Medicare fee-for-service system must reflect a person-centered, system-oriented approach to care. Payers and providers who serve the same

person must be empowered to work together to help people with chronic conditions prevent, delay, or minimize disease and disability progression and maximize their health and well being.

That is why I am here to reintroduce a much needed solution—the Medicare Chronic Care Improvement Act of 2003. This bill establishes a comprehensive plan to improve and strengthen the Medicare fee-for-service and Medicare+Choice systems by generating better health outcomes for beneficiaries with chronic conditions and increasing efficiency.

This bill would achieve these results by, first, helping to prevent, delay, and minimize the progression of chronic conditions by authorizing the Secretary of Health and Human Services to expand coverage of preventive health benefits. The bill permits providers to waive deductibles and co-payments for preventive and wellness services currently covered by Medicare and streamlines the process of approving new preventive benefits.

Second, this bill provides a person-centered, system-oriented approach to care for this extremely vulnerable segment of our population by expanding Medicare coverage to include assessment, care-coordination, self-management services, and patient and family caregiver education and counseling.

For more detail, I am also entering a section-by-section bill summary into the CONGRESSIONAL RECORD following this statement.

The Medicare Chronic Care Improvement Act provides a comprehensive solution to improving the quality of life and health for millions of Americans who are struggling with serious and disabling chronic conditions. Not only that, it has the potential to save the Medicare program money, by better managing and treating chronic conditions before costly complications result. That is good for seniors and good for Medicare—a win-win situation.

It is time to step up to the plate and fulfill our obligation to our Nation's most vulnerable citizens. Improving Medicare is the right thing to do, but only if we do it the right way. I believe that this bill is a critical component of the right recipe for strengthening the Medicare program for today and tomorrow's beneficiaries. Unlike the administration's Medicare reform plan, the Medicare Chronic Care Improvement Act gives beneficiaries better care while maintaining consumer choice and improving the program's efficiency. Because these are the results that West Virginians want, I will fight to include the provisions of this bill in any Medicare reform package that moves through the Finance Committee or the Senate floor.

I would like the record to reflect that the following groups publically support this legislation: Alzheimer's Association; American Geriatrics Society; Center for Medicare Advocacy; Families USA; and Medicare Rights Center.

National Chronic Care Consortium, representing such organizations as:

Aging and Disability Services Administration, State of Washington (Olympia, WA); Aging in America, Inc (Bronx, NY); Albert Einstein Healthcare Network (Philadelphia, PA); Area Agency on Aging 10B Inc. (Akron, OH); Baylor Health Care System (Dallas, TX); Benjamin Rose (Cleveland, OH); Beth Abraham Family of Health Services (Bronx, NY); Blue Cross & Blue Shield of Minnesota (Eagan, MN); Carle Foundation Hospital-Health Systems Research Center (Mahomet, IL); Catholic Health Initiatives (Parker, CO); Centura Health (Denver, CO); Community Health Partnership, Inc. (Eau Claire, WI); Fairview Health Services/Enbenezzer (Minneapolis, MN); Hallelund Health Consulting (Minneapolis, MN); Hebrew Home and Hospital (Hartford, CT); Highmark Blue Cross Blue Shield (Pittsburgh, PA); Inglis Innovative Services (Philadelphia, PA); Lancaster General Hospital (Lancaster, PA); Masonicare (Wallingford, CT); Mercy Medical Center—North Iowa (Mason City, IA); MetroHealth System (Cleveland, OH); Metropolitan Jewish Health System (Brooklyn, NY); Minnesota Senior Health Options (MSHO) (St. Paul, MN); Motion Picture and Television Fund (Woodland Hills, CA); Northeast Health (Troy, NY); Presbyterian SeniorCare (Pittsburgh, PA); Saint Michael's Hospital (Stevens Point, WI); SCAN (Long Beach, CA); Sierra Health Services (Las Vegas, NV); Summa Health System (Akron, OH); Sutter Health (Sacramento, CA); Total Longterm Care, Inc. (Denver, CO); Upstate NY Network of the U.S. Dept. of Veterans Affairs, VISN 2 (Albany, NY); ViaHealth (Rochester, NY); Visiting Nurse Service of New York (New York, NY); Volunteers of America National Services (Eden Prairie, MN); and Wisconsin Partnership Program at Community Living Alliance (Madison, WI).

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

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

S. 1179

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Medicare Chronic Care Improvement Act of 2003”.

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

Sec. 1. Short title; table of contents.

**TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.**

**Subtitle A—Improving Access to Preventive Services**

Sec. 101. Elimination of deductibles and co-insurance for existing preventive health benefits.

Sec. 102. Institute of Medicine Medicare prevention benefit study and report.

Sec. 103. Authority to administratively provide for coverage of additional preventive benefits.

Sec. 104. Coverage of an initial preventive physical examination.

Subtitle B—Medicare Coverage for Care Coordination and Assessment Services

Sec. 111. Care coordination and assessment services.

Sec. 112. Care coordination and assessment services and quality improvement program in Medicare+Choice plans.

Sec. 113. Improving chronic care coordination through information technology.

Subtitle C—Additional Provisions

Sec. 121. Review of coverage standards.

TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

Sec. 201. Institute of Medicine medicare chronic condition care improvement study and report.

**TITLE I—BENEFITS TO PREVENT, DELAY, AND MINIMIZE THE PROGRESSION OF CHRONIC CONDITIONS.**

**Subtitle A—Improving Access to Preventive Services**

**SEC. 101. ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR EXISTING PREVENTIVE HEALTH BENEFITS.**

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after subsection (o) the following new subsection:

“(p) DEDUCTIBLES AND COINSURANCE WAIVED FOR PREVENTIVE HEALTH ITEMS AND SERVICES.—The Secretary shall not require the payment of any deductible or coinsurance under subsection (a) or (b), respectively, of any individual enrolled for coverage under this part for any of the following preventive health items and services:

“(1) Blood-testing strips, lancets, and blood glucose monitors for individuals with diabetes described in section 1861(n).

“(2) Diabetes outpatient self-management training services (as defined in section 1861(qq)(1)).

“(3) Pneumococcal, influenza, and hepatitis B vaccines and administration described in section 1861(s)(10).

“(4) Screening mammography (as defined in section 1861(jj)).

“(5) Screening pap smear and screening pelvic exam (as defined in paragraphs (1) and (2) of section 1861(nn), respectively).

“(6) Bone mass measurement (as defined in section 1861(rr)(1)).

“(7) Prostate cancer screening test (as defined in section 1861(oo)(1)).

“(8) Colorectal cancer screening test (as defined in section 1861(pp)(1)).

“(9) Screening for glaucoma (as defined in section 1861(uu)).

“(10) Medical nutrition therapy services (as defined in section 1861(vv)(1)).”

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1833(a)(1)(B) of the Social Security Act (42 U.S.C. 1395l(a)(1)(B)) is amended to read as follows: “(B) with respect to preventive health items and services described in subsection (p), the amounts paid shall be 100 percent of the fee schedule or other basis of payment under this title for the particular item or service.”

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after “1861(s)(10)(A)” the following: “, preventive health items and services described in section 1833(p).”

(c) WAIVER OF APPLICATION OF DEDUCTIBLE.—Section 1833(b)(1) of the Social Security Act (42 U.S.C. 1395l(b)(1)) is amended to read as follows: “(1) such deductible shall not apply with respect to preventive health

items and services described in subsection (p).”

(d) ADDING “LANCET” TO DEFINITION OF DME.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by striking “blood-testing strips and blood glucose monitors” and inserting “blood-testing strips, lancets, and blood glucose monitors”.

(e) CONFORMING AMENDMENTS.—

(1) ELIMINATION OF COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting “or which are described in subsection (p)” after “assignment-related basis”.

(2) ELIMINATION OF COINSURANCE FOR CERTAIN DME.—Section 1834(a)(1)(A) of the Social Security Act (42 U.S.C. 1395m(a)(1)(A)) is amended by inserting “(or 100 percent, in the case of such an item described in section 1833(p))” after “80 percent”.

(3) ELIMINATION OF DEDUCTIBLES AND COINSURANCE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) is amended—

(A) in paragraph (2)(C)—

(i) by striking “(C) FACILITY PAYMENT LIMIT.—” and all that follows through “Notwithstanding subsections” and inserting the following:

“(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections”;

(ii) by striking “(I) in accordance” and inserting the following:

“(i) in accordance”;

(iii) by striking “(II) are performed” and all that follows through “payment under” and inserting the following:

“(ii) are performed in an ambulatory surgical center or hospital outpatient department,

payment under”; and

(iv) by striking clause (ii); and

(B) in paragraph (3)(C)—

(i) by striking “(C) FACILITY PAYMENT LIMIT.—” and all that follows through “Notwithstanding subsections” and inserting the following:

“(C) FACILITY PAYMENT LIMIT.—Notwithstanding subsections”;

(ii) by striking clause (ii).

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004.

**SEC. 102. INSTITUTE OF MEDICINE MEDICARE PREVENTION BENEFIT STUDY AND REPORT.**

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of current literature and best practices in the field of health promotion and disease prevention among medicare beneficiaries, including the issues described in paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall include an assessment of—

(A) whether each health promotion and disease prevention benefit covered under the medicare program is medically effective (as defined in subsection (d)(3));

(B) utilization by medicare beneficiaries of such benefits (including any barriers to or incentives to increase utilization);

(C) quality of life issues associated with such benefits; and

(D) whether health promotion and disease prevention benefits that are not covered under the medicare program that would affect all medicare beneficiaries are likely to be medically effective (as so defined).

(b) REPORTS.—

(1) THREE-YEAR REPORT.—On the date that is 3 years after the date of enactment of this Act, and each successive 3-year anniversary thereafter, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains—

(A) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(B) the recommendations for legislation described in paragraph (3).

(2) INTERIM REPORT BASED ON NEW GUIDELINES.—If the United States Preventive Services Task Force or the Task Force on Community Preventive Services establishes new guidelines regarding preventive health benefits for medicare beneficiaries more than 1 year prior to the date that a report described in paragraph (1) is due to be submitted to the President, then not later than 6 months after the date such new guidelines are established, the Institute of Medicine of the National Academy of Sciences shall submit to the President a report that contains a detailed description of such new guidelines. Such report may also contain recommendations for legislation described in paragraph (3).

(3) RECOMMENDATIONS FOR LEGISLATION.—The Institute of Medicine of the National Academy of Sciences, in consultation with the United States Preventive Services Task Force and the Task Force on Community Preventive Services, shall develop recommendations in legislative form that—

(A) prioritize the preventive health benefits under the medicare program; and

(B) modify such benefits, including adding new benefits under such program, based on the study conducted under subsection (a).

(c) TRANSMISSION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), on the day that is 6 months after the date on which the report described in paragraph (1) of subsection (b) (or paragraph (2) of such subsection if the report contains recommendations in legislative form described in subsection (b)(3)) is submitted to the President, the President shall transmit the report and recommendations to Congress.

(2) REGULATORY ACTION BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.—If the Secretary of Health and Human Services has exercised the authority under section 103(a) to adopt by regulation one or more of the recommendations under subsection (b)(3), the President shall only submit to Congress those recommendations under subsection (b)(3) that have not been adopted by the Secretary.

(3) DELIVERY.—Copies of the report and recommendations in legislative form required to be transmitted to Congress under paragraph (1) shall be delivered—

(A) to both Houses of Congress on the same day;

(B) to the Clerk of the House of Representatives if the House is not in session; and

(C) to the Secretary of the Senate if the Senate is not in session.

(d) DEFINITION OF MEDICALLY EFFECTIVE.—In this section, the term “medically effective” means, with respect to a benefit or technique, that the benefit or technique has been—

(1) subject to peer review;

(2) described in scientific journals; and

(3) determined to achieve an intended goal under normal programmatic conditions.

**SEC. 103. AUTHORITY TO ADMINISTRATIVELY PROVIDE FOR COVERAGE OF ADDITIONAL PREVENTIVE BENEFITS.**

(a) IN GENERAL.—The Secretary of Health and Human Services may by regulation adopt any or all of the legislative recommendations developed by the Institute of Medicine of the National Academy of Sciences, in consultation with the United

States Preventive Services Task Force and the Task Force on Community Preventive Services in a report under section 102(b)(3) (relating to prioritizing and modifying preventive health benefits under the Medicare program and the addition of new preventive benefits), consistent with subsection (b).

(b) **ELIMINATION OF COST-SHARING.**—With respect to items and services furnished under the Medicare program that the Secretary has incorporated by regulation under subsection (a), the provisions of section 1833(p) of the Social Security Act (relating to elimination of cost-sharing for preventive benefits), as added by section 101(a), shall apply to those items and services in the same manner as such section applies to the items and services described in paragraphs (1) through (10) of such section.

**SEC. 104. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.**

(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), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(W) an initial preventive physical examination (as defined in subsection (ww));”.

(b) **SERVICES DESCRIBED.**—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Initial Preventive Physical Examination

“(ww) The term ‘initial preventive physical examination’ means physicians’ services consisting of a physical examination with the goal of health promotion and disease detection and includes a history and physical exam, a health risk appraisal, and health risk counseling, and laboratory tests or other items and services as determined by the Secretary in consultation with the United States Preventive Services Task Force.”.

(c) **WAIVER OF DEDUCTIBLE AND COINSURANCE.**—

(1) **DEDUCTIBLE.**—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking “and” before “(6)”, and

(B) by inserting before the period at the end the following: “, and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))”.

(2) **COINSURANCE.**—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”; and

(B) in clause (O), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”.

(d) **PAYMENT AS PHYSICIANS’ SERVICES.**—Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(W),” after “(2)(S),”.

(e) **OTHER CONFORMING AMENDMENTS.**—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(J) in the case of an initial preventive physical examination (as defined in section 1861(ww)), which is performed not later than 6 months after the date the individual’s first coverage period begins under part B;” and

(2) in paragraph (7), by striking “or (H)” and inserting “(H), or (J)”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

**Subtitle B—Medicare Coverage for Care Coordination and Assessment Services**  
**SEC. 111. CARE COORDINATION AND ASSESSMENT SERVICES.**

(a) **SERVICES AUTHORIZED.**—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“CARE COORDINATION AND ASSESSMENT SERVICES

“SEC. 1897. (a) **PURPOSE.**—

“(1) **IN GENERAL.**—The purpose of this section is to provide the appropriate level and mix of follow-up care to an individual with a chronic condition who qualifies as an eligible beneficiary (as defined in paragraph (2)).

“(2) **ELIGIBLE BENEFICIARY DEFINED.**—In this section, the term ‘eligible beneficiary’ means a beneficiary who—

“(A) has a serious and disabling chronic condition (as defined in subsection (f)(1)); or

“(B) has four or more chronic conditions (as defined in subsection (f)(4)).

“(b) **ELECTION OF CARE COORDINATION AND ASSESSMENT SERVICES.**—

“(1) **IN GENERAL.**—On or after January 1, 2005, an eligible beneficiary may elect to receive care coordination services in accordance with the provisions of this section under which, in appropriate circumstances, the eligible beneficiary has health care services covered under this title managed and coordinated by a care coordinator who is qualified under subsection (e) to furnish care coordination services under this section.

“(2) **REVOCAION OF ELECTION.**—An eligible beneficiary who has made an election under paragraph (1) may revoke that election at any time.

“(c) **OUTREACH.**—The Secretary shall provide for the wide dissemination of information to beneficiaries and providers of services, physicians, practitioners, and suppliers with respect to the availability of and requirements for care coordination services under this section.

“(d) **CARE COORDINATION AND ASSESSMENT SERVICES DESCRIBED.**—Care coordination services under this section shall include the following:

“(1) **BASIC CARE COORDINATION AND ASSESSMENT SERVICES.**—Except as otherwise provided in this section, eligible beneficiaries who have made an election under this section shall receive the following services:

“(A)(i) An initial assessment of an individual’s medical condition, functional and cognitive capacity, and environmental and psychosocial needs.

“(ii) Annual assessments after the initial assessment performed under clause (i), unless the physician or care coordinator of the individual determines that additional assessments are required due to sentinel health events or changes in the health status of the individual that may require changes in the plan of care developed for the individual.

“(B) The development of an initial plan of care, and subsequent appropriate revisions to that plan of care.

“(C) The management of, and referral for, medical and other health services, including multidisciplinary care conferences and coordination with other providers.

“(D) The monitoring and management of medications.

“(E) Patient education and counseling services.

“(F) Family caregiver education and counseling services.

“(G) Self-management services, including health education and risk appraisal to identify behavioral risk factors through self-assessment.

“(H) Consultations by telephone with physicians and other appropriate health care professionals, including 24-hour access to a care coordinator.

“(I) Coordination with the principal caregiver in the home.

“(J) The managing and facilitating of transitions among health care professionals and across settings of care, including the following:

“(i) The pursuit the treatment option elected by the individual.

“(ii) The inclusion of any advance directive executed by the individual in the medical file of the individual.

“(K) Activities that facilitate continuity of care and patient adherence to plans of care.

“(L) Information about, and referral to, community-based services, including patient and family caregiver education and counseling about such services, and facilitating access to such services when elected.

“(M) Information about, and referral to, hospice services and palliative care, including patient and family caregiver education and counseling about hospice services and palliative care, and facilitating transition to hospice when elected.

“(N) Such other medical and health care services for which payment would not otherwise be made under this title as the Secretary determines to be appropriate for effective care coordination, including the additional items and services as described in paragraph (2).

“(2) **ADDITIONAL BENEFITS.**—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to eligible beneficiaries who have made an election under this section (subject to an assessment by the care coordinator of an individual beneficiary’s circumstances and need for such benefits) in order to encourage the receipt of, or to improve the effectiveness of, care coordination services.

“(e) **CARE COORDINATORS.**—

“(1) **REQUIREMENT FOR CERTIFICATION.**—

“(A) **IN GENERAL.**—In order to be qualified to furnish care coordination and assessment services under this section, an individual or entity shall be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) who has been certified for a period (as provided in subparagraph (B)) by the Secretary, or by an organization recognized by the Secretary, as having met such criteria as the Secretary may establish for the furnishing of care coordination under this section (which may include experience in the provision of care coordination or primary care physician’s services).

“(B) **PERIOD OF CERTIFICATION.**—The period of certification for an individual referred to in subparagraph (A) is as follows:

“(i) A one-year period for each of the first three years of participation under this section.

“(ii) A three-year period thereafter.

“(2) **ADDITIONAL REQUIREMENTS.**—

“(A) **SUBMISSION OF DATA.**—A care coordinator shall comply with such data collection and reporting requirements as the Secretary determines necessary to assess the effect of care coordination on health outcomes.

“(B) **PARTICIPATION IN QUALITY IMPROVEMENT PROGRAM.**—A care coordinator shall participate in the quality improvement program under paragraph (3).

“(C) ADDITIONAL TERMS.—A care coordinator shall comply with such other terms and conditions as the Secretary may specify.

“(3) QUALITY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—The Secretary shall establish a chronic care quality assurance program to monitor and improve clinical outcomes for beneficiaries with chronic conditions.

“(B) ELEMENTS OF PROGRAM.—Under the program, the Secretary shall—

“(i) establish standards to measure—

“(I) quality and performance of the care of chronic conditions;

“(II) the continuity and coordination of care that eligible beneficiaries under this section receive; and

“(III) both underutilization and overutilization of services;

“(ii) provide to care coordinators periodic reports on their performance on such measures; and

“(iii) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of care coordination options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate).

“(C) REVIEW OF CLAIMS.—

“(i) IN GENERAL.—Subject to clause (ii), under the program the Secretary shall make available to care coordinators claims data relating to a beneficiary for whom the coordinator coordinates care under this section for the coordinator's review and subsequent appropriate follow-up action.

“(ii) AUTHORIZATION.—Data may only be provided to a care coordinator under clause (i) if the eligible beneficiary involved has given written authorization for such information to be so provided.

“(4) LIMITATION ON NUMBER OF CARE COORDINATORS.—Payment may only be made under this section for care coordination services furnished during a period to one care coordinator with respect to an eligible beneficiary.

“(5) PAYMENT FOR SERVICES.—

“(A) IN GENERAL.—The Secretary shall establish payment terms and conditions and payment rates for basic care coordination and assessment services described in subsection (d).

“(B) PAYMENT METHODOLOGY.—Payment under this section shall be made in a manner that bundles payment for all care coordination and assessment services furnished during a period, as specified by the Secretary.

“(C) CODES.—The Secretary may establish new billing codes to carry out the provisions of this paragraph.

“(f) DEFINITIONS.—In this section:

“(1) SERIOUS AND DISABLING CHRONIC CONDITION.—The term ‘serious and disabling chronic condition’ means, with respect to an individual, that the individual has at least one chronic condition and a licensed health care practitioner has certified within the preceding 12-month period that—

“(A) the individual has a level of disability such that the individual is unable to perform (without substantial assistance from another individual) for a period of at least 90 days due to a loss of functional capacity—

“(i) at least 2 activities of daily living; or

“(ii) such number of instrumental activities of daily living that is equivalent (as determined by the Secretary) to the level of disability described in clause (i);

“(B) the individual has a level of disability equivalent (as determined by the Secretary) to the level of disability described in subparagraph (A); or

“(C) the individual requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

“(2) ACTIVITIES OF DAILY LIVING.—The term ‘activities of daily living’ means each of the following:

“(A) Eating.

“(B) Toileting.

“(C) Transferring.

“(D) Bathing.

“(E) Dressing.

“(F) Continence.

“(3) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term ‘instrumental activities of daily living’ means each of the following:

“(A) Medication management.

“(B) Meal preparation.

“(C) Shopping.

“(D) Housekeeping.

“(E) Laundry.

“(F) Money management.

“(G) Telephone use.

“(H) Transportation use.

“(4) CHRONIC CONDITION.—The term ‘chronic condition’ means an illness, functional limitation, or cognitive impairment that—

“(A) lasts, or is expected to last, at least one year;

“(B) limits what a person can do; and

“(C) requires on-going medical care.

“(5) BENEFICIARY.—The term ‘beneficiary’ means an individual entitled to benefits under part A and enrolled under part B, including an individual enrolled under the Medicare+Choice program under part C.”

(b) COVERAGE OF CARE COORDINATION AND ASSESSMENT SERVICES AS A PART B MEDICAL SERVICE.—

(1) IN GENERAL.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(A) in the second sentence, by redesignating paragraphs (16) and (17) as clauses (i) and (ii); and

(B) in the first sentence—

(i) by striking “and” at the end of paragraph (14);

(ii) by striking the period at the end of paragraph (15) and inserting “; and”; and

(iii) by adding after paragraph (15) the following new paragraph:

“(16) care coordination and assessment services furnished by a care coordinator in accordance with section 1897.”

(2) CONFORMING AMENDMENTS.—Sections 1864(a) 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are each amended by striking “paragraphs (16) and (17)” each place it appears and inserting “clauses (i) and (ii) of the second sentence”.

(3) PART B COINSURANCE AND DEDUCTIBLE NOT APPLICABLE TO CARE COORDINATION AND ASSESSMENT SERVICES.—

(A) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking “and” at the end of subparagraph (T); and

(ii) by inserting before the final semicolon “, and (V) with respect to care coordination and assessment services described in section 1861(s)(16) that are furnished by, or coordinated through, a care coordinator, the amounts paid shall be 100 percent of the payment amount established under section 1897”.

(B) DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(i) by striking “and” at the end of paragraph (5); and

(ii) by inserting before the final period “, and (7) such deductible shall not apply with respect to care coordination and assessment services (as described in section 1861(s)(16))”.

(C) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)), as amended by section 101(b)(2), is further amended by inserting after “section 1833(p),” the following: “with

respect to care coordination and assessment services (as described in section 1861(s)(16)).”

**SEC. 112. CARE COORDINATION AND ASSESSMENT SERVICES AND QUALITY IMPROVEMENT PROGRAM IN MEDICARE-CHOICE PLANS.**

Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w-22(e)(1)) is amended by inserting before the period at the end the following: “, including a quality improvement program for coordinated care services referred to in section 1897(e)(3)”.

**SEC. 113. IMPROVING CHRONIC CARE COORDINATION THROUGH INFORMATION TECHNOLOGY.**

(a) TECHNOLOGY IMPROVEMENT GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereinafter in this section referred to as the “Secretary”) shall make grants to eligible entities to enable such entities to develop, implement, or train personnel in the use of standardized clinical information technology systems designed to—

(A) improve the coordination and quality of care furnished to medicare beneficiaries with chronic conditions; and

(B) increase administrative efficiencies of such entities.

(2) CARE COORDINATORS AS ELIGIBLE ENTITIES.—In this section, an eligible entity is a care coordinator who furnishes care coordination services to medicare beneficiaries under section 1897 of the Social Security Act.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a care coordinator shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the clinical information technology system that the care coordinator intends to implement using amounts received under the grant;

(2) provide assurances that are satisfactory to the Secretary that such system, for which amounts are to be expended under the grant, conforms to the standards established by the Secretary under part C of title XI of the Social Security Act, and such other standards as the Secretary may specify; and

(3) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the project for which the grant is made; and

(B) ensure that funding provided under the grant is expended for the purposes for which it is made.

(c) MATCHING REQUIREMENT.—The Secretary may not make a grant to a care coordinator under subsection (a) unless that care coordinator agrees that, with respect to the costs to be incurred by the care coordinator in carrying out the activities for which the grant is being awarded, the care coordinator will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to \$1 for each \$1 of Federal funds provided under the grant.

(d) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than 18 months after the first grant has been made under this section, the Secretary shall submit an initial report to Congress containing the information referred to in paragraph (3) as well as any recommendations with respect to grants under this section.

(2) FINAL REPORT.—Not later than 6 months after the last grant has been awarded (as determined by the Secretary) under this section, the Secretary shall submit a final report to Congress containing the information referred to in paragraph (2) as well as any recommendations with respect to grants under this section.

(3) CONTENTS OF REPORT.—The reports under this subsection shall include the following:

(A) A description of the number and nature of grants made under this section.

(B) An evaluation of—

(i) improvements in the coordination and quality of care furnished to beneficiaries with chronic conditions; and

(ii) increases in administrative efficiencies of care coordinators.

(e) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2005, 2006, and 2007, there are authorized to be appropriated to the Secretary \$10,000,000 to carry out the program under this section.

#### Subtitle C—Additional Provisions

##### SEC. 121. REVIEW OF COVERAGE STANDARDS.

(a) REVIEW.—With respect to determinations under section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) (relating to whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury for purposes of payment under title XVIII of such Act), the Secretary of Health and Human Services shall conduct a review of—

(1) regulations, policies, procedures, and instructions of the Centers for Medicare & Medicaid Services for making those determinations; and

(2) policies, procedures, local medical review policies, manual instructions, interpretative rules, statements of policy, and guidelines of general applicability of fiscal intermediaries (under section 1816 of the Social Security Act (42 U.S.C. 1395h)) and carriers under section 1842 of such Act (42 U.S.C. 1395u) for making those determinations.

(b) MODIFICATION.—Insofar as the Secretary determines that the Centers for Medicare & Medicaid Services, a fiscal intermediary, or a carrier has misapplied such standard by requiring that the item or service improve the condition of the patient with respect to such illness or injury, the Secretary shall take such corrective measures as are appropriate to ensure the Centers, intermediary, or carrier (as the case may be) applies the proper standard for making such determinations.

(c) REPORT.—On the date that is 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the review conducted under subsection (a);

(2) a detailed statement of the modifications made under subsection (b); and

(3) recommendations to avoid misapplication of the standard in the future.

#### TITLE II—INSTITUTE OF MEDICINE STUDY ON EFFECTIVE CHRONIC CONDITION CARE

##### SEC. 201. INSTITUTE OF MEDICINE MEDICARE CHRONIC CONDITION CARE IMPROVEMENT STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to—

(A) conduct a comprehensive study of the medicare program to identify—

(i) factors that facilitate provision of effective care (including, where appropriate, hospice care) for medicare beneficiaries with chronic conditions; and

(ii) factors that impede provision of such care for such beneficiaries, including the issues studied under paragraph (2); and

(B) submit the report described in subsection (b).

(2) ISSUES STUDIED.—The study required under paragraph (1) shall—

(A) identify inconsistent clinical, financial, or administrative requirements across

provider and supplier settings or professional services with respect to medicare beneficiaries;

(B) identify requirements under the program imposed by law or regulation that—

(i) promote costshifting across providers and suppliers;

(ii) impede provision of effective, seamless transitions across health care settings, such as between hospitals, skilled nursing facilities, home health services, hospice care, and care in the home;

(iii) impose unnecessary burdens on such beneficiaries and their family caregivers;

(iv) impede the establishment of administrative information systems to track health status, utilization, cost, and quality data across providers and suppliers and provider settings;

(v) impede the establishment of clinical information systems that support continuity of care across settings and over time; or

(vi) impede the alignment of financial incentives among the medicare program, the medicaid program, and group health plans and providers and suppliers that furnish services to the same beneficiary.

(b) REPORT.—On the date that is 18 months after the date of enactment of this Act, the Institute of Medicine of the National Academy of Sciences shall submit to Congress and the Secretary of Health and Human Services a report that contains—

(1) a detailed statement of the findings and conclusions of the study conducted under subsection (a); and

(2) recommendations to improve provision of effective care for medicare beneficiaries with chronic conditions.

By Mr. SANTORUM (for himself and Mr. BAUCUS):

S. 1180. A bill to amend the Internal Revenue Code of 1986 to modify to work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join Senator BAUCUS in the introduction of the Encouraging Work Act of 2003. The Work Opportunity Tax Credit, WOTC, and Welfare-to-Work Tax Credit, W-t-W, are tax incentives that encouraging employers to hire public assistance recipients and other individuals with barriers to employment. The combination of Welfare Reform passed by Congress in 1996 and the assistance to employers found in the WOTC and W-t-W has enabled expanded opportunity for many Americans. Yet more can be done.

Under present law, WOTC provides a 40 percent tax credit on the first \$6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120-399 hours. W-t-W provides a 35 percent tax credit on the first \$10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first \$10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,200,000 previously dependent persons to find jobs.

Eligibility is limited to: 1. recipients of Temporary, Assistance to Needy Families, TANF, in 9 of the 18 months

ending on the hiring date; 2. individuals receiving Supplemental Security Income, SSI, benefits; 3. disabled individuals with vocational rehabilitation referrals; 4. veterans on food stamps; 5. individuals aged 18-24 in households receiving food stamp benefits; 6. qualified summer youth employees; 7. low-income ex-felons; and 8. individuals ages 18-24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive, offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals, and a retention incentive, providing a higher reward for those who stay longer on the job.

Without action by Congress WOTC and W-t-W will expire on December 31, 2003. After seven years of experience with these programs, their value has been well demonstrated. In 2001, the GAO issued a report that indicated that employers have significantly changed their hiring practices because of WOTC. With the resources provided by WOTC, employers have provided job mentors, lengthened training periods, engaged in recruiting outreach, and listed jobs or requested referrals from public agencies or partnerships. WOTC and W-t-W have become a true public-private partnership in which the Department of Labor, the Internal Revenue Service, the states, and employers have forged excellent working relationships.

But the challenges for employers and those looking for better opportunities are real. The job skills of eligible persons leaving welfare are sometimes limited, and the costs of recruiting, training, and supervising low-skilled individuals cause many employers to look elsewhere for employees. The weak economy and rising unemployment give employers more hiring options. WOTC and W-t-W are proven incentives for encouraging employers to seek employees from the targeted groups.

Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. This is particularly true during periods of high unemployment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers.

The Administration's FY 2004 budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and

credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be \$10,000 for W-t-W employees and \$6,000 for other target groups (\$3,000 for summer youth). In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The Administration's FY 2004 budget proposes to eliminate the family income attribution rule.

Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the "food stamp category" would greatly improve the job prospects for many absentee fathers and other "at risk" males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

The Work Opportunity Credit and Welfare-to-Work Credit have been successful in moving traditionally hard-to-employ persons off welfare and into the workforce, where they contribute to our economy. However, employer participation in these important programs can be increased, particularly among small and medium-sized employers. This is due to the complexity of the credits and the fact that they are both only temporary provisions of the tax code subject to renewal every year or two. Small, medium, and even some large employers find it difficult to justify developing the necessary infrastructure to administer and participate in these programs when their continued existence beyond one or two years is constantly in question.

This legislation will remedy this problem by combining WOTC and W-t-W into one, more easily administered tax credit, and by making it a permanent part of the tax code. Many organi-

zations including the National Council of Chain Restaurants, National Retail Federation, Food Marketing Institute, National Association of Convenience Stores, National Restaurant Association, American Hotel & Lodging Association, National Roofing Contractors Association, National Association of Chain Drug Stores, American Nursery and Landscape Association, and the American Health Care Association support this legislation. Representatives Amo Houghton, R-NY, and Charles Rangel, D-NY, have introduced identical legislation in the House of Representatives. I urge my colleagues to join us in supporting this legislation.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator SANTORUM, and my other Senate colleagues in introducing legislation to permanently extend and improve upon the Work Opportunity and the Welfare-to-Work tax credits. During this year's debate on the Jobs and Growth Tax Reconciliation Act, I voted to extend these tax credits were not included in the final conference agreement, but I continue to strongly support the passage of legislation this year to make these credits permanent and make several reforms in the programs to improve their effectiveness.

Over the past seven years, the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work, W-t-W, tax credit have helped over 2.2 million public assistance dependent individuals enter the workforce. Both of these important programs are scheduled to expire on December 31, 2003. These hiring tax incentives have clearly demonstrated their effectiveness in helping to level the job selection playing field for low-skilled individuals by providing employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment, and this is particularly critical during periods of high unemployment. The weak economy and rising unemployment give employers many more hiring options because of the larger pool of experienced laid-off workers. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals reaching their welfare eligibility ceiling this year.

Because of the costs involved in setting up and administering a WOTC/W-t-W program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

WOTC provides employers with a graduated tax credit equal to 25-per-

cent of the first \$6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first \$6,000 in wages for those working over 400 hours. The W-t-W tax credit is geared toward long term welfare recipients and provides a 35-percent tax credit on the first \$10,000 in wages during the first year of employment and a 50-percent credit on the first \$10,000 for those who stay on the job a second year.

In my own State of Montana many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC/W-t-W program, however, are low-income families, under the Food Stamp Program and the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, program, and also low income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during the past 18 months, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC/TANF recipients, and 52 U.S. veterans.

The bill we are introducing provides for a permanent program extension of the two credits. After seven years of experience with WOTC and W-t-W, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

The bill also includes a proposal to simplify the programs by combining them into one credit and making the rules for computing the combined credits simpler. This would be accomplished by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be \$10,000 for W-t-W employees. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. Because of the program's eligibility criteria, over 80 percent of those hired are women leaving welfare. Since men generally are not eligible for TANF benefits, the fathers of children on welfare receive little help in finding work, even though they often face even greater barriers to work than women

on welfare. We propose to help absentee fathers find work and provide the resources to assume their family responsibilities by opening up WOTC eligibility to anyone 39 years old or younger in families receiving food stamps or residing in enterprise zones or empowerment communities. Raising the eligibility limits in these two categories will extend eligibility to hundreds of thousands of at-risk men.

I urge my colleagues to support this important piece of legislation.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. AKAKA):

S. 1181. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce along with Senators LAUTENBERG and AKAKA the Youth Financial Literacy Act to call attention to an important issue in education: teaching students the basic principles of financial literacy to prepare them to be responsible consumers. This legislation will give young Americans the tools they need to succeed in this ever-changing economy.

Today, it is as important for young people to learn about staying out of debt, maintaining good credit and building up their savings as it is for them to learn about geography, science and history.

Far too many of our youth enter adulthood lacking basic financial literacy skills, not knowing how to budget their wages or salaries or build personal savings. A recent survey by the non-profit JumpStart Coalition reveals that the only 21 percent of students between the ages of 16 and 22 say they have taken a personal finance course at school. The study also found that when high school seniors were tested on basic financial literacy, they answered a mere 50.2 percent of the questions correctly. That, is simply not acceptable.

Providing financial education to our nation's young people must be a priority. Indeed it is time for our schools to make a more concerted effort to prepare our children for success in new ways including their future financial decision-making.

I am not alone in advocating the importance of financial literacy. Federal Reserve Chairman Alan Greenspan has said, "Improving basic financial education at the elementary and secondary school levels is essential to providing a foundation for financial literacy that can help prevent younger people from making poor financial decisions."

Today, I hope to elevate the discussion of this issue by introducing the Youth Financial Education Act, which would provide \$100 million in grants to states to help them develop and implement financial education programs in elementary and secondary schools, including helping to prepare teachers to

provide financial education. It would also establish a national clearinghouse for instructional materials and information regarding model financial education programs.

I am happy to report that in my state of New Jersey many have already started the ball rolling on financial literacy education. My State allows local schools the option of offering financial education in high school, and the New Jersey Coalition for Financial Education is working with the New Jersey Department of Education to develop and implement core curriculum standards. I believe it is time for our Nation to follow suit and begin to focus on the financial literacy education of all young Americans.

We must not sit idly by while so many of our children lack financial literacy. So I ask for my colleagues to join me in support of the Youth Financial Literacy Act, which will ensure that our next generation is prepared to meet the challenges of the new economy.

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. 1181

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

**SECTION 1. PROMOTING YOUTH FINANCIAL LITERACY.**

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

**"PART D—PROMOTING YOUTH FINANCIAL LITERACY**

**"SEC. 4401. SHORT TITLE AND FINDINGS.**

"(a) SHORT TITLE.—This part may be cited as the 'Youth Financial Education Act'.

"(b) FINDINGS.—Congress finds the following:

"(1) In order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy. All young adults should have the educational tools necessary to make informed financial decisions.

"(2) Despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs. A nationwide survey conducted in 2002 by the JumpStart Coalition for Personal Financial Literacy examined the financial knowledge of 4,024 12th graders. On average, survey respondents answered only 50 percent of the questions correctly. This figure is down from the 52 percent average score in 2000 and the 57 percent average score in 1997.

"(3) An evaluation by the National Endowment for Financial Education High School Financial Planning Program undertaken jointly with the United States Department of Agriculture Cooperative State Research, Education, and Extension Service demonstrates that as little as 10 hours of classroom instruction can impart substantial knowledge and affect significant change in how teens handle their money.

"(4) State educational leaders have recognized the importance of providing a basic fi-

ancial education to students in kindergarten through grade 12 by integrating financial education into State educational standards, but by 2002 only 4 States required students to complete a course that covered personal finance before graduating from high school.

"(5) Teacher training and professional development are critical to achieving youth financial literacy. Teachers confirm the need for professional development in personal finance education. In a survey by the National Institute for Consumer Education, 77 percent of a State's economics teachers revealed that they had never had a college course in personal finance.

"(6) Personal financial education helps prepare students for the workforce and for financial independence by developing their sense of individual responsibility, improving their life skills, and providing them with a thorough understanding of consumer economics that will benefit them for their entire lives.

"(7) Financial education integrates instruction in valuable life skills with instruction in economics, including income and taxes, money management, investment and spending, and the importance of personal savings.

"(8) The consumers and investors of tomorrow are in our schools today. The teaching of personal finance should be encouraged at all levels of our Nation's educational system, from kindergarten through grade 12.

**"SEC. 4402. STATE GRANT PROGRAM.**

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants to State educational agencies to develop and integrate youth financial education programs for students in elementary schools and secondary schools.

"(b) STATE PLAN.—

"(1) APPROVED STATE PLAN REQUIRED.—To be eligible to receive a grant under this section, a State educational agency shall submit an application that includes a State plan, described in paragraph (2), that is approved by the Secretary.

"(2) STATE PLAN CONTENTS.—The State plan referred to in paragraph (1) shall include—

"(A) a description of how the State educational agency will use grant funds;

"(B) a description of how the programs supported by a grant will be coordinated with other relevant Federal, State, regional, and local programs; and

"(C) a description of how the State educational agency will evaluate program performance.

"(c) ALLOCATION OF FUNDS.—

"(1) ALLOCATION FACTORS.—Except as otherwise provided in paragraph (2), the Secretary shall allocate the amounts made available to carry out this section pursuant to subsection (a) to each State according to the relative populations in all the States of students in kindergarten through grade 12, as determined by the Secretary based on the most recent satisfactory data.

"(2) MINIMUM ALLOCATION.—Subject to the availability of appropriations and notwithstanding paragraph (1), a State that has submitted a plan under subsection (b) that is approved by the Secretary shall be allocated an amount that is not less than \$500,000 for a fiscal year.

"(3) REALLOCATION.—In any fiscal year an allocation under this subsection—

"(A) for a State that has not submitted a plan under subsection (b); or

"(B) for a State whose plan submitted under subsection (b) has been disapproved by the Secretary;

shall be reallocated to States with approved plans under this section in accordance with paragraph (1).

“(d) USE OF GRANT FUNDS.—

“(1) REQUIRED USES.—A grant made to a State educational agency under this part shall be used—

“(A) to provide funds to local educational agencies and public schools to carry out financial education programs for students in kindergarten through grade 12 based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, and investing;

“(B) to carry out professional development programs to prepare teachers and administrators for financial education; and

“(C) to monitor and evaluate programs supported under subparagraphs (A) and (B).

“(2) LIMITATION ON ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under subsection (a) may use not more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out this section.

“(e) REPORT TO THE SECRETARY.—Each State educational agency receiving a grant under this section shall transmit a report to the Secretary with respect to each fiscal year for which a grant is received. The report shall describe the programs supported by the grant and the results of the State educational agency’s monitoring and evaluation of such programs.

**“SEC. 4403. CLEARINGHOUSE.**

“(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary shall make a grant to, or execute a contract with, an eligible entity with substantial experience in the field of financial education, such as the JumpStart Coalition for Personal Financial Literacy, to establish, operate, and maintain a national clearinghouse (in this part referred to as the ‘Clearinghouse’) for instructional materials and information regarding model financial education programs and best practices.

“(b) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means a national nonprofit organization with a proven record of—

“(1) cataloging youth financial literacy materials; and

“(2) providing support services and materials to schools and other organizations that work to promote youth financial literacy.

“(c) APPLICATION.—An eligible entity desiring to establish, operate, and maintain the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

“(d) BASIS AND TERM.—The Secretary shall make the grant or contract authorized under subsection (a) on a competitive, merit basis for a term of 5 years.

“(e) USE OF FUNDS.—The Clearinghouse shall use the funds provided under a grant or contract made under subsection (a)—

“(1) to maintain a repository of instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens, for use by States, localities, and the general public;

“(2) to disseminate to States, localities, and the general public, through electronic and other means, instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens; and

“(3) to the extent that resources allow, to provide technical assistance to States, localities, and the general public on the design, establishment, and implementation of financial education programs for elementary schools and secondary schools, including kindergartens.

“(f) CONSULTATION.—The chief executive officer of the eligible entity selected to establish and operate the Clearinghouse shall consult with the Department of the Treasury and the Securities Exchange Commission with respect to its activities under subsection (e).

“(g) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops financial education programs and instructional materials for such programs shall submit to the Clearinghouse information on the programs and copies of the materials.

“(h) APPLICATION OF COPYRIGHT LAWS.—In carrying out this section the Clearinghouse shall comply with the provisions of title 17 of the United States Code.

**“SEC. 4404. EVALUATION AND REPORT.**

“(a) PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the performance of programs assisted under sections 4402 and 4403.

“(b) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under subsection (a), the Secretary shall evaluate programs assisted under sections 4402 and 4403—

“(1) to judge their performance and effectiveness;

“(2) to identify which of the programs represent the best practices of entities developing financial education programs for students in kindergarten through grade 12; and

“(3) to identify which of the programs may be replicated and used to provide technical assistance to States, localities, and the general public.

“(c) REPORT.—For each fiscal year for which there are appropriations under section 4407(a), the Secretary shall transmit a report to Congress describing the status of the implementation of this part. The report shall include the results of the evaluation required under subsection (b) and a description of the programs supported under section 4402.

**“SEC. 4405. DEFINITIONS.**

“In this part:

“(1) FINANCIAL EDUCATION.—The term ‘financial education’ means educational activities and experiences, planned and supervised by qualified teachers, that enable students to understand basic economic and consumer principals, acquire the skills and knowledge necessary to manage personal and household finances, and develop a range of competencies that will enable them to become responsible consumers in today’s complex economy.

“(2) QUALIFIED TEACHER.—The term ‘qualified teacher’ means a teacher who holds a valid teaching certification or is considered to be qualified by the State educational agency in the State in which the teacher works.

**“SEC. 4406. PROHIBITION.**

“Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s specific instructional content, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

**“SEC. 4407. AUTHORIZATION OF APPROPRIATIONS.**

“(a) AUTHORIZATION.—For the purposes of carrying out this part, there are authorized to be appropriated \$100,000,000 for each of the fiscal years 2004 through 2008.

“(b) LIMITATION ON FUNDS FOR CLEARINGHOUSE.—The Secretary may use not less than 2 percent and not more than 5 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4403.

“(c) LIMITATION ON FUNDS FOR SECRETARY EVALUATION.—The Secretary may use not more than \$200,000 from the amounts appro-

riated under subsection (a) for each fiscal year to carry out subsections (a) and (b) of section 4404.

“(d) LIMITATION ON ADMINISTRATIVE COSTS.—Except as necessary to carry out subsections (a) and (b) of section 4404 using amounts described in subsection (c) of this section, the Secretary shall not use any portion of the amounts appropriated under subsection (a) for the costs of administering this part.”.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. SPECTER, Mr. KENNEDY, Ms. MIKULSKI, Mr. KYL, Mr. DASCHLE, Mr. SANTORUM, and Mr. BROWNBACK):

S. 1182. A bill to sanction the ruling Burmese military junta, to strengthen Burma’s democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; to the Committee on Foreign Relations.

Mr. MCCONNELL. Mr. President, while democracy activists in Burma have been murdered, intimidated and harassed for well over a decade, the blitzkrieg on freedom launched last weekend by the illegitimate State Peace and Development Council—SPDC—killed and injured scores of supporters from the National League for Democracy—NLD.

Democracy leader Aung San Suu Kyi and numerous other activists were brutalized, arrested and today remain held incommunicado. Reports indicate that Suu Kyi is being held in the Yemon military camp, 40 kilometers outside of Rangoon. It is believed she suffers from lacerations to her face and a broken shoulder. The administration should waste no time in gaining access to Suu Kyi to ensure her safety and security.

I have come to the floor every day this week to draw attention to the untenable situation in that country. On Monday, I urged the administration to act promptly and decisively in support of democracy in Burma. The State Department can take specific action without the need for legislation—such as broadening visa restrictions, freezing assets, and downgrading Burma’s diplomatic status in Washington.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. MCCONNELL. Yes.

Mr. MCCAIN. I thank the Senator from Kentucky for his advocacy for, not only one of the world’s great, courageous figures, but also on behalf of democracy and freedom in a small country far away.

Is the Senator from Kentucky aware of any action, or even any statements being made by our friends in Asia, including ASEAN, and how does he feel about that?

Mr. MCCONNELL. I would say to my friend from Arizona, there will be a regional ASEAN meeting in Phnom Penh on June 18 and 19. Secretary Powell is scheduled to be there. I hope that will be an opportunity to hear from the

other Asian, ASEAN countries, that maybe, for once, they will understand what a pariah regime that is and work with us in a coordinated fashion to impose sanctions that will actually mean something in bringing down the regime.

Mr. MCCAIN. If the Senator will yield for one further question, has the Senator heard about a statement of the Japanese Foreign Minister that basically is saying that everything was pretty well—the status quo was pretty well satisfactory in Burma? And before I ask the Senator to answer the question, I want to say again, I thank him for his advocacy of many years, for the democratic movement in Burma, sometimes known as Myanmar. I thank him and look forward to working with him.

I think the Congress can act, and I hope we can work in concert with the administration.

Mr. MCCONNELL. I thank my friend from Arizona. I understand the Japanese may be reconsidering their statement of yesterday. There could well be a subsequent statement today that might be more pleasing to the Senator from Arizona and myself.

I thank him for being an extraordinary leader on this issue, as well, and for agreeing to cosponsor the bill I am about to introduce.

I also might mention, I had an opportunity to talk with the Deputy Secretary of State and Deputy Secretary of Defense today to encourage them to take a very great interest and recommend the President take a very great interest in this issue. The only way, obviously, we are going to have an impact in Burma is for the United States to use the kind of leadership only it can provide to rally the world around a sanctions regime and tighten the noose around this regime and hopefully this will be the beginning of that effort.

Mr. MCCAIN. I thank my friend.

Mr. MCCONNELL. The White House should utilize all authority at its disposal to immediately sanction the junta, including banning imports from Burma and raising the brutal crackdown on democracy before the U.N. Security Council.

On Tuesday, I appealed to the international community to stand by the people of Burma during their dark hour of need, and called upon the world's democracies to act in support of Suu Kyi and her courageous supporters. Elected representatives cannot stand by idly while democracy in Burma is strangled by the SPDC.

Today, along with my colleagues Senators FEINSTEIN, MCCAIN, LEAHY, SPECTER, KENNEDY, MIKULSKI, KYL, DASCHLE, and SANTORUM, I am introducing the "Burmese Freedom and Democracy Act of 2003". This act recognizes that what is needed in Burma is fewer carrots and more sticks.

Among other restrictions that I will describe shortly, the act imposes an import ban on articles produced, mined, manufactured, grown, or assem-

bled in Burma. It prohibits the import of goods to the United States produced by the SPDC, companies in which the junta has a financial interest, and the SPDC's political arm, the Union Solidarity Development Association—USDA.

Lest my colleagues forget, the USDA, under the direction of the junta, orchestrated the recent terror in the townships that left scores dead and Suu Kyi injured. They are Burma's fedayeen.

There are some who discount economic sanctions as a tool to coerce and modify the behavior of repressive nations. According to their argument, sanctions hurt the very people they are intended to help.

Sanctions in Burma will not rape ethnic girls and women, burn down their villages and murder their brothers, husbands, and sons.

Sanctions in Burma will not impress children into the military, drug them, and send them off to dangerous battlefields.

Sanctions in Burma will not use slave labor, nor will they profit from an illicit narcotics trade that wreaks havoc among the region's youth and contributes to an exploding HIV/AIDS rate along Burma's borders.

Finally, sanctions in Burma will not attack peaceful supporters of the NLD or democracy leader Aung San Suu Kyi, nor will they ever take a single life by an act of violence.

The SPDC is guilty of committing the laundry list of heinous crimes that I just described. Every single one of them is an assault on the human rights and dignity of the Burmese people. Burma's junta is as chronic an abuser of human rights as Kim Jong-Il in North Korea—and as was the Taliban in Afghanistan and Saddam Hussein in Iraq.

The fact of the matter is that the import ban will impact a negligible percentage of Burma's population. It will deny Burma the ability to import some \$350 million to \$470 million worth of goods to the United States—most of which are garments and textiles—thus denying the SPDC legitimate revenue.

Unfortunately, the people of Burma reap almost no benefits from this income. The SPDC is more interested in spending revenue on itself than in investing in the welfare of the people of Burma.

With over one-quarter of Burma's imports currently destined for the United States, the ban will hit the SPDC where it hurts most—in the pocketbook and its public image.

South African Bishop Desmond Tutu, who knows a thing or two about sanctions and repression, said of Burma earlier this week:

We urge freedom loving governments everywhere to impose sanctions on this illegitimate regime. They worked for us in South Africa. If applied conscientiously, they will work in Burma too. Freeze the assets of the regime and impose stringent travel restrictions on them and their supporters. We need a regime change [in Burma].

I supported sanctions against the apartheid regime in South Africa then, and I support sanctions against the military junta in Burma now.

Sanctions will empower Burma's democrats who have already demonstrated their support for freedom by overwhelmingly electing the NLD in the 1990 elections. These polls were never recognized by the SPDC. Instead, the junta has spent the past decade trying to suffocate the aspirations for democracy by all of Burma's people and imprisoning their leader, Suu Kyi.

In addition to the import ban, the act also freezes the assets of the SPDC in the United States and requires the U.S. to oppose and vote against loans or other assistance proposed for Burma by international financial institutions.

It expands the visa ban to former and present SPDC leadership and the Union Solidarity Development Association and requires coordination with the European Union's visa ban list. Let me be clear that the SPDC leadership includes all officer-level individuals associated with the regime.

Finally, the act requires the Secretary of State to promote greater awareness of the abuses of the SPDC, requires the State Department to more proactively promote awareness of U.S. policy toward Burma, and encourages greater support for Burmese democracy activists.

Let me close with a few words and observations about Daw Aung San Suu Kyi. Over the years, the daughter of the father of Burma's independence has stood squarely between the people of Burma and the thuggish regime. Against great odds and often in great danger, Suu Kyi has consistently and successfully stared down SPDC generals and their military might. She has never wavered—not once—in her support for democracy and the rule of law for Burma.

Our thoughts and prayers continue to be with Suu Kyi and the people she so ably represents. She is obviously the greatest hope for that country.

I ask my colleagues: If America does not stand with Suu Kyi and the NLD now, whither freedom and justice in Burma? Without us, it has no chance.

Pressure, patience and persistence will bring political change to Burma. Suu Kyi knows this in her heart and mind, as we all do. America must lead. And if we do, others will rally.

I thank my friend from New Mexico. I yield the floor and ask unanimous consent that the text of the bill be printed in the RECORD.

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

Mr. DOMENICI. Mr. President, I commend the distinguished majority whip for his eloquent statement today and compliment him on his persistence with reference to the cause of freedom and democracy in Burma.

Mr. DASCHLE. Mr. President, for 6 days, Aung San Suu Kyi—the courageous voice of democracy and freedom in Burma—has been in jail. Her crime?

Support for reform and democracy in one of the world's most isolated and repressive countries.

One of the world's great democrats is currently being held by a military junta disingenuously named State Peace and Development Council. Late last week, the Junta announced that it had Suu Kyi in "protective custody." The truth, of course, is that she was beaten with a bamboo pole and detained in an ambush that killed four of her supporters. Several observers noted that her arrest is the latest in a vicious and coordinated attack which has claimed 70 of her supporters.

This is evidence of the junta's deplorable disregard for international standards of decency and for the people it rules. It also tells us what we can expect from the junta. A year ago, after Suu Kyi was released from her 15 year long detention, there was a glimmer of hope for reform and democracy in Burma. Rather than re-engaging the world, however, the junta holds fast to its failed policies of the past.

The Special Envoy from the United Nations is scheduled to travel to Burma this weekend as part of a larger effort to promote democracy. Yet with its actions this past week, the SPDC confirms what we had all feared—and what Suu Kyi warned: the military junta in power in Burma cannot and will not take the necessary steps to bring about democracy and freedom. I hope the UN Envoy will make clear his disappointment, indeed the world's disappointment, with these latest developments.

Given the gravity of this situation in Burma, I am pleased to join with Senators FEINSTEIN and MCCONNELL, among others, in introducing legislation that underscores the depth of our concern and the strength of our resolve in ensuring democracy in Burma. The bill would ban imports from Burma, freeze SPDC assets in this country, tighten the visa ban on Burmese officials, and urge specific diplomatic steps to raise the importance of this issue with our friends in the international community.

In the National Security Strategy, President Bush proclaimed that "our first imperative is to clarify what we stand for: the United States must defend liberty and justice because these principles are right and true for all people everywhere. No nation owns these aspirations, and no nation is exempt from them. . . . We will champion the cause of human dignity and oppose those who resist it." The SPDC is doing everything it can to rob the Burmese people of liberty, of justice, and of human dignity. It is time for the Senate to make clear just where the United States stands in the face of this injustice.

Mrs. FEINSTEIN. Mr. President, I rise along with my distinguished colleague from Kentucky, Senator MCCONNELL, to introduce the Burmese Freedom and Democracy Act of 2003, which would establish a complete import ban on all products from Burma.

On May 30, Aung San Suu Kyi and at least 17 officials of the National League for Democracy, NLD, were detained after a clash in the town of Ye-u, after reportedly being attacked by members of the Union Solidarity Development Association, a paramilitary organization created by the ruling military junta, the State Peace and Development Council, SPDC.

Four people were killed and 50 injured in the attacks. Aung San Suu Kyi has been officially placed in "protective custody", but her whereabouts remain unconfirmed.

Still more disturbing are reports in today's Washington Post that Suu Kyi may have suffered a head wound and a broken arm in the attacks and is possibly being held at a military hospital near Rangoon. The military junta continues to insist that she is in good health and in a "safe place", yet they are unwilling to allow independent verification of Suu Kyi's condition.

One year ago the military junta freed Suu Kyi following 19 months of house arrest, while promising cooperation and dialogue toward political accommodation. Had I discussed Burma on the floor of the Senate back then, I would have sounded a note of cautious optimism, echoing Aung San Suu Kyi's own statement that "it's a new dawn for the country".

But as the events of May 30 have so tragically illustrated, the SPDC have broken every promise to work towards political dialogue and, in fact, have launched a new campaign of repression.

Given the military regime's utter contempt for the welfare and safety of its people and the repeated and ongoing human rights abuses against Aung San Suu Kyi and the members of the NLD, I now feel we have no choice but to strengthen the sanctions imposed in 1997.

The actions of the SPDC are simply outrageous and I join the State Department, the United Nations and the many voices from around the world in demanding that Suu Kyi and the others be released immediately, and to allow the U.N. Special Rapporteur on Human Rights in Burma to conduct an independent investigation into the attack on Aung San Suu Kyi and her party.

Not content to stop with arresting the leadership of the NLD, the regime has tightened its crackdown on the pro-democracy movement, closing universities and shutting down at least six NLD offices. In addition, two NLD leaders have been arrested on charges of "subversion".

Let us recall, the NLD overwhelmingly won Burma's national elections in 1990. The NLD are Burma's rightful leaders, not the military junta which seized power in 1988, crushing a widespread popular uprising.

Such actions are only the tip of the iceberg of the regime's brutality. According to the Council on Foreign Relations Task Force report on Burma, which both the Senator from Kentucky, and I had the honor of serving

on, gross human rights violations continue under the SPDC: over 1,300 political prisoners are still in jail; the practice of rape as a form of repression has been sanctioned by the Burmese military; the use of forced labor is widespread; trafficking in young boys and girls as sex slaves is rampant; the government engages in the production and distribution of opium and methamphetamine.

In addition, the report notes that because of SPDC mismanagement, the Burmese economy is in shambles, with poor rice harvests and, most recently, a February 2003 financial crisis sparked by government closure of private deposit companies.

In the face of such brutality it is imperative that the United States take strong and decisive action to express our disapproval of the SPDC and its tactics, and our support of those forces working for peace in Burma.

The United States must act. Although in general I do not support the use of trade embargoes as an effective instrument of foreign policy, in certain circumstances and when faced with certain conditions I believe they are necessary and proper and can, in fact, provide effective leverage.

Burma, I believe, is such a case and an import ban is a proper and much needed step to take.

Our legislation: imposes a complete ban on all imports from Burma until the President determines and certifies to Congress that Burma has made substantial and measurable progress on a number of democracy and human rights issues; allows the President to waive the import ban should he determine and notify Congress that it is in the national security interests of the United States to do so; allows the President to waive any provision of the bill found to be in violation of any international obligations of the U.S. pursuant to World Trade Organization dispute settlement procedures; freezes the assets of the Burmese regime in the United States; directs United States executive directors at international financial institutions to vote against loans to the Burma; expands the visa ban against the past and present leadership of the military junta; encourages the Secretary of State to highlight the abysmal record of the SPDC in the international community, and; authorizes the President to use all available resources to assist democracy activists in Burma.

Both business and labor are united in support of a ban. The American Apparel and Footwear Association, which represents apparel, footwear, and sewn products companies and their suppliers, has called for a ban.

President and CEO Kevin M. Burke stated, "The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its

people. AAFA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well."

A number of stores, including Saks, Macy's, Bloomingdale's, Ames, and The Gap have already voluntarily stopped importing or selling goods from Burma. The AFL-CIO and other labor groups also support a ban.

In addition, the international Labor Organization, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Such diversity in support of this legislation speaks volumes about the brutality of the SPDC regime and its single-minded unwillingness to take even a modest step towards democracy and national reconciliation.

Currently, Burma exports approximately \$400 million in goods per year to the United States. These exports are the regime's major source of foreign currency. Rest assured, the regime will take notice if this bill becomes law.

As events of the past few days have shown, all other avenues have been tried and failed. There is no other resource but to introduce this legislation, that would put pressure on the military junta to cease its violations of human rights and respect the free will of the Burmese people as expressed in the 1990 elections.

We must make a stand on the side of the people of Burma. I urge my colleagues to support this bill.

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

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

S. 1182

*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 "Burmese Freedom and Democracy Act of 2003".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's "Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma" dated March 28, 2003, the SPDC has become "more confrontational" in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly

conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its "strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma" and called upon the United States Government to "impose an outright ban on U.S. imports" of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

#### SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of

internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term "appropriate congressional committees" means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives that to do so is in the national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

(c) DURATION OF TRADE BAN.—The President may terminate the restrictions contained in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in subsection (a)(3) have been met.

#### SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

**SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.**

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

**SEC. 6. EXPANSION OF VISA BAN.**

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

**SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.**

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

**SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.**

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

By Mr. KYL (for himself and Mr. WYDEN):

S. 1183. A bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes; to the Committee on Foreign Relations.

Mr. KYL. Mr. President, I ask unanimous consent that the "Global Internet Freedom Act of 2003" be printed in today's CONGRESSIONAL RECORD.

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

S. 1183

*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 "Global Internet Freedom Act of 2003".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Freedom of speech, freedom of the press, and freedom of association are fundamental characteristics of a free society. The first amendment to the Constitution of the United States guarantees that "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble". These constitutional provisions guarantee the rights of Americans to communicate and associate with one another without restriction, including unfettered communication and association via the Internet. Article 19 of the United Nation's Universal Declaration of Human Rights explicitly guarantees the freedom to "receive and impart information and ideas through any media and regardless of frontiers".

(2) All people have the right to communicate freely with others, and to have unrestricted access to news and information, on the Internet.

(3) With nearly 10 percent of the world's population now online, and more gaining access each day, the Internet stands to become the most powerful engine for democratization and the free exchange of ideas ever invented.

(4) Unrestricted access to news and information on the Internet is a check on repressive rule by authoritarian regimes around the world.

(5) The governments of Burma, Cuba, Laos, North Korea, the People's Republic of China, Saudi Arabia, Syria, and Vietnam, among others, are taking active measures to keep their citizens from freely accessing the Internet and obtaining international political, religious, and economic news and information.

(6) Intergovernmental, nongovernmental, and media organizations have reported the widespread and increasing pattern by authoritarian governments to block, jam, and monitor Internet access and content using methods that include—

(A) firewalls, filters, and "black boxes";

(B) surveillance of e-mail messages and message boards;

(C) the use of particular words to identify content to be monitored;

(D) "stealth blocking" individuals from visiting websites;

(E) the development of "black lists" of users that visit certain websites; and

(F) the denial of access to the Internet.

(7) The transmission of the Voice of America and Radio Free Asia, as well as hundreds of news sources with an Internet presence, are routinely being jammed by repressive governments.

(8) Since the 1940s, the United States has deployed anti-jamming technologies to make Voice of America and other United States Government sponsored broadcasting available to people in nations with governments that seek to block news and information.

(9) The United States Government has thus far commenced only modest steps to fund and deploy technologies to defeat Internet censorship. As of January 2003, the Voice of America and Radio Free Asia have committed a total of \$1,000,000 for technology to counter Internet jamming by the People's Republic of China. This technology, which has been successful in attracting 100,000 electronic hits per day from the People's Republic of China, has been relied upon by Voice of America and Radio Free Asia to ensure access to their programming by citizens of the People's Republic of China, but United States Government financial support for the technology has lapsed. In most other countries there is no meaningful United States support for Internet freedom.

(10) The success of United States policy in support of freedom of speech, press, and association requires new initiatives to defeat totalitarian and authoritarian controls on news and information over the Internet.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to adopt an effective and robust global Internet freedom policy;

(2) to establish an office within the International Broadcasting Bureau with the sole mission of countering Internet jamming and blocking by repressive regimes;

(3) to expedite the development and deployment of technology to protect Internet freedom around the world;

(4) to authorize the commitment of a substantial portion of United States international broadcasting resources to the continued development and implementation of technologies to counter the jamming of the Internet;

(5) to utilize the expertise of the private sector in the development and implementation of such technologies, so that the many current technologies used commercially for securing business transactions and providing virtual meeting space can be used to promote democracy and freedom; and

(6) to bring to bear the pressure of the free world on repressive governments guilty of Internet censorship and the intimidation and persecution of their citizens who use the Internet.

**SEC. 4. DEVELOPMENT AND DEPLOYMENT OF TECHNOLOGIES TO DEFEAT INTERNET JAMMING AND CENSORSHIP.**

(a) ESTABLISHMENT OF OFFICE OF GLOBAL INTERNET FREEDOM.—There is established in the International Broadcasting Bureau the Office of Global Internet Freedom (hereinafter in this section referred to as the "Office"). The Office shall be headed by a Director who shall develop and implement a comprehensive global strategy to combat state-sponsored and state-directed jamming of the Internet and persecution of those who use the Internet.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office \$30,000,000 for each of the fiscal years 2004 and 2005.

(c) COOPERATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The head of each department and agency of the United States Government shall cooperate fully with, and assist in the implementation of, the strategy developed by the Director of the Office and

shall make such resources and information available to the Director as is necessary for the achievement of the purposes of this Act.

(d) REPORT TO CONGRESS.—

(1) IN GENERAL.—On March 1 following the date of enactment of this Act, and annually thereafter, the Director of the Office shall submit to Congress a report on the status of state interference with Internet use and of efforts by the United States to counter such interference.

(2) CONTENT.—Each report required by paragraph (1) shall—

(A) list the countries that pursue policies of Internet censorship, blocking, and other abuses;

(B) provide information concerning the government agencies or quasi-governmental organizations that implement Internet censorship; and

(C) describe with the greatest particularity practicable the technological means by which such blocking and other abuses are accomplished.

(3) FORMS OF REPORT.—In the discretion of the Director, a report required by paragraph (1) may be submitted in both a classified and a nonclassified form.

(e) LIMITATION ON AUTHORITY.—Nothing in this Act shall be interpreted to authorize any action by the United States to interfere with foreign national censorship in furtherance of legitimate law enforcement aims that is consistent with the United Nation's Universal Declaration of Human Rights.

**SEC. 5. SENSE OF CONGRESS.**

It is the sense of Congress that the United States should—

(1) publicly, prominently, and consistently denounce governments that restrict, censor, ban, and block access to information on the Internet;

(2) direct the United States Representative to the United Nations to submit a resolution at the first annual meeting of the United Nations Human Rights Commission after the date of enactment of this Act that condemns all governments that practice Internet censorship and deny individuals the freedom to access and share information; and

(3) deploy, at the earliest practicable date, technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.

By Mr. SMITH (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. FITZGERALD, and Mr. LAUTENBERG):

S. 1184. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SMITH. Mr. President, I rise today to introduce the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act of 2003. In this effort, I am joined by my colleagues: Senator CLINTON from New York, Senator MURRAY from Washington, Senator LAUTENBERG, from New Jersey and Senator DODD from Connecticut. I appreciate their support for this important legislation.

We are motivated by a desire to achieve justice for Holocaust victims and their families, and we recognize that if such justice is to be attained, the United States must continue to lead the world by example.

The United States has provided leadership in this area ever since American troops liberated the death camps in Nazi Germany. This legislation recog-

nizes that the struggle for justice requires continued American leadership and that the Foundation is the appropriate mechanism for that leadership.

The purpose of this act is to create a public/private Foundation dedicated to supporting research and education in the area of Holocaust-era assets and restitution policy and promoting innovative solutions to restitution issues.

The need for the Foundation arises from the findings of the Presidential advisory Commission on Holocaust Assets in the United States. I was proud to serve as commissioner on that Commission. The Commission identified several policy initiatives that require U.S. leadership, including: creating mechanisms to assist claimants in obtaining resolution of claims; supporting databases of victims' claims for the restitution of personal property; reviewing the degree to which other nations have adhered to agreements reached at international conferences on Holocaust issues; synthesizing the work of other national commissions throughout the world; supporting further research and review of Holocaust-era assets; and disseminating information about restitution programs to survivors and their families.

If the nations of the world are to be convinced of our lasting commitment to justice for Holocaust victims and if continued work on Holocaust assets issues is to be truly effective, the Foundation must have the stamp of the Federal Government. But the Federal Government cannot, and should not, perform these tasks by itself. It will coordinate the efforts of the Federal Government, State governments, the private sector and individuals here, and abroad, to help people locate and identify assets who would otherwise have no ability to do so. It will encourage policy makers to deal with contemporary restitution issues, including how best to treat unclaimed assets.

Each passing day reveals the existence of still unclaimed assets. This bill will create an institution able to provide the academic center of research into this area of continuing importance. It will also show that the United States is willing to ask of itself no less than it asks of the international community.

The restitution of property is part of a larger process of obtaining a measure of justice for the victims of Europe's major human disasters of the 20th century—fascism and communism. Justice for these individuals is long overdue. Having had justice delayed for so long, they are entitled to expect that democratic governments will move promptly to bring closure during their lifetimes.

I ask unanimous consent that the text of the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act of 2003 be printed in the RECORD.

S. 1184

*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 "Holocaust Victims' Assets, Restitution Policy, and Remembrance Act".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The United States should continue to lead the international effort to identify, protect, and return looted assets taken by the Nazis and their collaborators from victims of the Holocaust.

(2) The citizens of the United States should understand exactly how the United States Government dealt with the assets looted from victims of the Nazis that came into its possession.

(3) The United States forces in Europe made extraordinary efforts to locate and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust.

(4) However, the restitution policy formulated by the United States and implemented in the countries in Europe occupied by the United States had many inadequacies and fell short of realizing the goal of returning stolen property to the victims.

(5) As a result of these United States policies and their implementation, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted.

(6) The Presidential Advisory Commission on Holocaust Assets in the United States, established in Public Law 105-186, found the following:

(A) Despite the undertaking by United States agencies to preserve, protect, and return looted assets, United States restitution policy could never fully address the unimaginable dimension and complexity of restituting assets to victims of the Holocaust. Many inadequacies reveal that United States authorities were driven by necessity, and practical concerns of restitution commingled with conflicting interests, priorities, and political considerations. Restitution competed with, and was often subordinated to, the desire to bring American troops home, the need to rebuild devastated European economies, and provide humanitarian assistance to millions of displaced persons, and the Cold War.

(B) With respect to many types of assets, the United States followed international legal tradition and undertook only to restore property to national governments, which it assumed would be responsible for satisfying the claims of their citizens. Because this practice excluded those who no longer had a nation to represent their interests, or who had fallen victim to the Nazi genocide, the United States also designated certain "successor organizations" to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of surviving victims. This practice led many assets to be too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations, rather than returned to their rightful owners.

(C) Far more regrettable is the United States failure to adequately assist victims, heirs, and successor organizations to identify victims' assets, instead relying upon them to present their own claims, often within unrealistically short deadlines, with the result that much victim property was never recovered.

(D) Even when property was returned to individual owners or their heirs, it was often only after protracted, cumbersome, and expensive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

(E) While the overall record of the United States is one in which its citizens can legitimately take pride, even the most farsighted

and best-intentioned policies intended to reconstitute stolen property to its country of origin failed to realize the goal of returning property to the victims who suffered the loss.

(F) In many instances, policy and circumstance combined and led to results that can be improved upon now, to provide a modicum of justice to Holocaust victims and their heirs and in memory of those who did not survive.

(7) The United States Government should promote both the review of Holocaust-era assets in Federal, State, and private institutions, and the return of such assets to victims or their heirs.

(8) The best way to achieve this is to create a single institution to serve as a centralized repository for research and information about Holocaust-era assets.

(9) Enhancing these policies will also assist victims of future armed conflicts around the world.

(10) The Government of the United States has worked to address the consequences of the National Socialist era with other governments and nongovernmental organizations, including the Conference on Jewish Material Claims Against Germany, which has worked since 1951 with the Government of the United States and with other governments to accomplish material restitution of the looted assets of Holocaust victims, wherever those assets were identified, and has played a major role in allocating restitution funds and funds contributed by the United States and other donor countries to the Nazi Persecutee Relief Fund.

### SEC. 3. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is established a National Foundation for the Study of Holocaust Assets (in this Act referred to as the "Foundation").

(b) PURPOSES.—The purposes of the Foundation are—

(1) to serve as a centralized repository for research and information about Holocaust-era assets by—

(A) compiling and publishing a comprehensive report that integrates and supplements where necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust;

(B) working with the Department of State's Special Envoy for Holocaust Issues to review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-era Assets and the Vilnius International Forum on Holocaust-era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so; and

(C) collecting and disseminating information about restitution programs around the world;

(2) to create tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets and to enable claimants to obtain the speedy resolution of their personal property claims by—

(A) ensuring the implementation of the agreements entered into by the Presidential Advisory Commission on Holocaust Assets in the United States with the American Association of Museums and the Association of Art Museum Directors to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica;

(B) funding grants to museums, libraries, universities, and other institutions that hold Holocaust-era cultural property and adhere to the agreements referred to in subparagraph (A), to conduct provenance research;

(C) encouraging the creation and maintenance of mechanisms such as an Internet-

based, searchable portal of Holocaust victims' claims for the restitution of personal property;

(D) funding a cross match of records developed by the 50 States of escheated property from the Holocaust era against databases of victims' names and publicizing the results of this effort;

(E) assisting State governments in the preservation and automation of records of unclaimed property that may include Holocaust-era property; and

(F) regularly publishing lists of Holocaust-era artworks returned to claimants by museums in the United States;

(3) to work with private sector institutions to develop and promote common standards and best practices for research and information gathering on Holocaust-era assets by—

(A) promoting and monitoring banks' implementation of the suggested best practices developed by the Presidential Advisory Commission on Holocaust Assets in the United States and the New York Bankers' Association;

(B) promoting the development of common standards and best practices for research by United States corporations into their records concerning whether they conducted business with Nazi Germany in the period preceding the onset of hostilities in December 1941;

(C) encouraging the International Commission on Holocaust Era Insurance Claims (ICHEIC) to prepare a report on the results of its claims process; and

(D) promoting the study and development of policies regarding the treatment of cultural property in circumstances of armed conflict; and

(4) other purposes the Board considers appropriate.

### SEC. 4. BOARD OF DIRECTORS.

(a) MEMBERSHIP AND TERMS.—The Foundation shall have a Board of Directors (in this Act referred to as the "Board"), which shall consist of 17 members, each of whom shall be a United States citizen.

(b) APPOINTMENT.—Members of the Board shall be appointed as follows:

(1) Nine members of the Board shall be representatives of government departments, agencies and establishments, appointed by the President, by and with the advice and consent of the Senate as follows:

(A) One representative each from the Department of State, Department of Justice, Department of the Treasury, Department of the Army, National Archives and Records Administration, and Library of Congress.

(B) One representative each from the United States Holocaust Memorial Council, National Gallery of Art, and National Foundation on the Arts and Humanities.

(2) Eight members of the Board shall be individuals who have a record of demonstrated leadership relating to the Holocaust or in the fields of commerce, culture, or education, appointed by the President, by and with the advice and consent of the Senate, after consideration of the recommendations of the congressional leadership, as follows:

(A) Two members each shall be appointed after consideration of the recommendations of the Majority Leader of the Senate and after consideration of the recommendations of the Minority Leader of the Senate.

(B) Two members each shall be appointed after consideration of the recommendations of the Speaker of the House of Representatives and after consideration of the recommendations of the Minority Leader of the House of Representatives.

(c) CHAIRMAN.—The President shall appoint a Chair from among the members of the Board.

(d) QUORUM AND VOTING.—A majority of the membership of the Board shall constitute a

quorum for the transaction of business. Voting shall be by simple majority of those members voting.

(e) MEETINGS AND CONSULTATIONS.—The Board shall meet at the call of the Chairman at least twice a year. Where appropriate, members of the Board shall consult with relevant agencies of the Federal Government, and with the United States Holocaust Memorial Council and Museum.

(f) REIMBURSEMENTS.—Members of the Board shall serve without pay, but shall be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

### SEC. 5. OFFICERS AND EMPLOYEES.

(a) EXECUTIVE DIRECTOR.—The Foundation shall have an Executive Director appointed by the Board and such other officers as the Board may appoint. The Executive Director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(b) EMPLOYEES.—Subject to the approval of the Board, the Foundation may employ such individuals at such rates of compensation as the Executive Director determines appropriate.

(c) VOLUNTEERS.—Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

### SEC. 6. FUNCTION AND CORPORATE POWERS.

The Foundation—

(1) may conduct business in the United States and abroad;

(2) shall have its principal offices in the District of Columbia or its environs; and

(3) shall have the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom, or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any real or personal property or income therefrom;

(D) to enter into contracts or other arrangements with public agencies, private organizations, and other persons, and to make such payments as may be necessary to carry out its purposes; and

(E) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

### SEC. 7. REPORTING REQUIREMENTS.

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during that fiscal year, including a full and complete statement of its receipts, expenditures, and investments, and a description of all acquisition and disposal of real property.

### SEC. 8. ADMINISTRATIVE SERVICES AND SUPPORT.

The Secretary of the Treasury, the Secretary of Education, the Secretary of State, and the heads of any other Federal agencies may provide personnel, facilities, and other administrative services to the Foundation.

### SEC. 9. SUNSET PROVISION.

The Foundation shall exist until September 30, 2013, at which time the Foundation's functions and research materials and products shall be transferred to the United States Holocaust Memorial Museum, or to other appropriate entities, as determined by the Board.

### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Foundation such

sums as may be necessary to carry out this Act.

(b) LIMITATION.—No funds appropriated to carry out this Act may be used to pay attorneys' fees in the pursuit of private claims.

By Mr. THOMAS (for himself, Mr. HARKIN, Mr. DOMENICI, Mr. BINGAMAN, Mr. ROBERTS, Mr. DAYTON, Mr. SMITH, Ms. CANTWELL, Mr. INOUE, Mr. BURNS, Mr. JOHNSON, Mr. ENZI, Mrs. LINCOLN, Ms. COLLINS, Mr. DASCHLE, Mr. HAGEL, and Mr. CONRAD):

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the "Rural Provider Equity Act of 2003" with Senator HARKIN and other members of the Senate Rural Health Caucus. This legislation comprehensively addresses the Medicare payment issues of rural physicians, rural health clinics, ambulance providers, home health agencies, community health centers, mental health providers and other critical mid-level clinicians.

The current Medicare program has many payment formula disparities that are biased against rural providers, which result in them being paid significantly less than their urban counterparts for the same services. The geographic inequities that exist within the Medicare program continually put rural providers at a disadvantage and adversely affect seniors; access to a quality health care in these communities.

Many physicians are being forced to limit the number of Medicare patients they serve because of poor reimbursement rates. The "Rural Providers Equity Act" is necessary to adequately pay physicians to they can continue caring for the elderly. In addition to establishing a work geographic index of 1.0, physicians practicing in federally designated Health Professional Shortage Areas will automatically start receiving the Medicare ten percent bonus payment to which they are entitled.

In recognition of the difficulties rural and frontier communities face in recruiting and retaining primary care clinicians; this legislation includes a provision providing tax exemptions to National Health Service Corps, NHSC, loan-repayments. The NHSC provides scholarships, loan-repayments, and stipends for clinicians who agree to serve in nationally designated underserved urban and rural communities. In the current NHSC loan program, recipients are given money to offset their tax liabilities. If this money was made available, more clinicians would be able to participate in the program and care for the underserved.

Home health care agencies and ambulance services are critical elements of the continuum of care in rural areas. These providers face unique circumstances in the distances they are required to travel to provide services. The current Medicare payment system does not make adequate adjustments to reflect the reality of rural and frontier health care. The "Rural Provider

Equity Act of 2003" recognizes the situation of these providers by increasing their Medicare payments to better cover their costs of providing services to seniors.

By caring for folks in underserved areas, rural health clinics and community health centers are a key component of the rural health care delivery system. As not every small town can sustain a hospital, we need to ensure these types of facilities are paid adequately and are provided enough flexibility to meet the health care needs of the communities they serve.

The "Rural Providers Equity Act of 2003" also permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services where they live.

Rural seniors are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of this provision will more than double the number of mental health providers available to seniors in my state with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the state.

Health care in rural America is at a critical juncture, and Congress must act now so providers receive this down payment towards Medicare equity to ensure rural seniors continue to have access to the health care services they deserve. I urge all my colleagues interested in rural health to cosponsor the "Rural Provider Equity Act of 2003."

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. 1185

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

**SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Rural Provider Equity Act of 2003".

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

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

- Sec. 1. Short title; amendments to Social Security Act; table of contents.
- Sec. 2. Rural physician reimbursement improvements.
- Sec. 3. Physician assistant, nurse practitioner, and clinical nurse specialist improvements.
- Sec. 4. Rural health clinic improvements.
- Sec. 5. Extension of temporary increase for home health services furnished in a rural area.
- Sec. 6. Rural community health center improvements.
- Sec. 7. Ensuring appropriate coverage of ambulance services under ambulance fee schedule.
- Sec. 8. Rural mental health care accessibility improvements.
- Sec. 9. Rural health services research improvements.
- Sec. 10. Exclusion for loan payments under National Health Service Corps loan repayment program.
- Sec. 11. Virtual pharmacist consultation service demonstration projects.

**SEC. 2. RURAL PHYSICIAN REIMBURSEMENT IMPROVEMENTS.**

(a) MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS.—

(1) PROCEDURES FOR SECRETARY, AND NOT PHYSICIANS, TO DETERMINE WHEN BONUS PAYMENTS UNDER MEDICARE INCENTIVE PAYMENT PROGRAM SHOULD BE MADE.—Section 1833(m) (42 U.S.C. 1395j(m)) is amended—

(A) by inserting "(1)" after "(m)"; and  
(B) 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)."

(2) 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. 1395j(m)).

(3) 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. 1395j(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 subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(b) PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended—

(1) in subparagraph (A), by striking “subparagraphs (B) and (C)” and inserting “subparagraphs (B), (C), and (E)”; and

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

“(E) FLOOR FOR WORK GEOGRAPHIC INDICES.—

“(i) IN GENERAL.—After calculating the work geographic indices in subparagraph (A)(iii) for a year (beginning with 2004), the Secretary shall increase the work geographic index for the year to the applicable floor index for the year for any locality for which such geographic index is less than such applicable floor index.

“(ii) APPLICABLE FLOOR INDEX.—For purposes of clause (i), the term ‘applicable floor index’ means—

“(I) 0.900 for services furnished during 2004;

“(II) 1.000 for services furnished during 2005 and subsequent years.”

**SEC. 3. PHYSICIAN ASSISTANT, NURSE PRACTITIONER, AND CLINICAL NURSE SPECIALIST IMPROVEMENTS.**

(a) BROADENING MEDICARE BENEFICIARIES ACCESS TO HOME HEALTH SERVICES AND HOSPICE CARE.—Section 1861(r) (42 U.S.C. 1395f(x)) is amended by adding at the end the following new sentences: “For purposes of sections 1814(a)(2)(C), 1814(a)(7)(B), 1835(a)(2)(A), 1861(m), 1861(dd), and 1895(c)(1), the term ‘physician’ includes a nurse practitioner, a clinical nurse specialist, and a physician assistant (as such terms are defined in subsection (aa)(5)) who does not have a direct or indirect employment relationship with the home health agency or hospice program (as the case may be), and is legally authorized to perform the services of a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be) in the jurisdiction in which the services are performed. For purposes of the preceding sentence, the provisions of section 1833(a)(1)(O) shall continue to apply with respect to amounts paid for services furnished by such a nurse practitioner, a clinical nurse specialist, and a physician assistant.”

(b) SKILLED NURSING FACILITIES.—Section 1819(b)(6) (42 U.S.C. 1395i-3(b)(6)) is amended—

(1) in the paragraph heading, by inserting “OR NURSE PRACTITIONER” after “PHYSICIAN”; and

(2) in subparagraph (A), by inserting “or nurse practitioner, including approving in writing a recommendation that an individual be admitted to a skilled nursing facility, admitting an individual to a skilled nursing facility, and performing the initial admitting assessment and all visits thereafter” before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

**SEC. 4. RURAL HEALTH CLINIC IMPROVEMENTS.**

(a) IMPROVEMENT IN RURAL HEALTH CLINIC REIMBURSEMENT UNDER MEDICARE.—Section 1833(f) (42 U.S.C. 1395f(f)) is amended—

(1) in paragraph (1), by striking “, and” at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) by striking “in a subsequent year” and inserting “in 1989 through 2002”; and

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

(3) by adding at the end the following new paragraphs:

“(3) in 2003, at \$82 per visit; and

“(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.”

(b) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH

CENTER SERVICES FROM THE MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)) is amended—

(A) in clause (i)(II), by striking “clauses (ii) and (iii)” and inserting “clauses (ii), (iii), and (iv)”; and

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

“(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

“(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

“(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were not furnished by an individual affiliated with a rural health clinic or a Federally qualified health center.”

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2003.

**SEC. 5. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.**

(a) IN GENERAL.—Section 508(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-533), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended—

(1) in the heading, by striking “24-MONTH INCREASE BEGINNING APRIL 1, 2001” and inserting “IN GENERAL”; and

(2) by striking “April 1, 2003” and inserting “April 1, 2004”; and

(3) by inserting before the period at the end the following: “(or 5 percent in the case of such services furnished on or after April 1, 2003, and before April 1, 2004)”.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-553), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking “the period beginning on April 1, 2001, and ending on September 30, 2002,” and inserting “a period under such section”.

(c) RETROACTIVE APPLICATION.—The amendments made by this section shall apply with respect to home health services furnished in a rural area on or after April 1, 2003.

**SEC. 6. RURAL COMMUNITY HEALTH CENTER IMPROVEMENTS.**

(a) DELIVERY OF MEDICARE-COVERED PRIMARY AND PREVENTIVE SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.—

(1) COVERAGE OF MEDICARE-COVERED AMBULATORY SERVICES BY FQHCs.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended to read as follows:

“(3) The term ‘Federally qualified health center services’ means—

“(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and such other services furnished by a Federally qualified health center for which payment may otherwise be made under this title if such services were furnished by a health care provider or health care professional other than a Federally qualified health center; and

“(B) preventive primary health services that a center is required to provide under section 330 of the Public Health Service Act, when furnished to an individual as a patient of a Federally qualified health center and such services when provided by a health care provider or health care professional employed by or under contract with a Federally qualified health center shall be treated as

billable visits for purposes of payment to the Federally qualified health center.”

(2) ENSURING FQHC REIMBURSEMENT UNDER HOSPITAL AND SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEMS.—Section 1862(a)(14) (42 U.S.C. 1395y(a)) is amended by inserting “Federally qualified health center services,” after “qualified psychologist services.”

(3) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking “(other than subsection (h))”.

(4) EFFECTIVE DATES.—The amendments made—

(A) by paragraphs (1) and (2) shall apply to services furnished on or after January 1, 2004; and

(B) by paragraph (3) shall take effect on the date of enactment of this Act.

(b) PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.—

(1) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in subparagraph (E), by striking “and” after the semicolon at the end;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(G) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.”

(2) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The Secretary of Health and Human Services (in this paragraph referred to as the “Secretary”) shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(G) of the Social Security Act, as added by paragraph (1), for health center entity arrangements to the antikickback penalties.

(ii) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under clause (1):

(I) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(II) Whether the arrangement between the health center entity and the other party restricts or limits a patient’s freedom of choice.

(III) Whether the arrangement between the health center entity and the other party protects a health care professional’s independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(B) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under subparagraph (A)(ii). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public

comment, as is consistent with this paragraph.

**SEC. 7. ENSURING APPROPRIATE COVERAGE OF AMBULANCE SERVICES UNDER AMBULANCE FEE SCHEDULE.**

(a) AIR AMBULANCE SERVICE.—

(1) COVERAGE.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(A) by redesignating paragraph (8), as added by section 221(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-486), as enacted into law by section 1(a)(6) of Public Law 106-554, as paragraph (9); and

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

“(10) ENSURING APPROPRIATE COVERAGE OF AIR AMBULANCE SERVICES.—

“(A) IN GENERAL.—The regulations described in section 1861(s)(7) shall ensure that air ambulance services (as defined in subparagraph (C)) are reimbursed under this subsection at the air ambulance rate if the air ambulance service—

“(i) is medically necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

“(ii) complies with equipment and crew requirements established by the Secretary.

“(B) MEDICALLY NECESSARY.—An air ambulance service shall be considered to be medically necessary for purposes of subparagraph (A)(i) if such service is requested—

“(i) by a physician or a hospital in accordance with the physician's or hospital's responsibilities under section 1867 (commonly known as the ‘Emergency Medical Treatment and Active Labor Act’);

“(ii) as a result of a protocol established by a State or regional emergency medical service (EMS) agency;

“(iii) by a physician, nurse practitioner, physician assistant, registered nurse, or emergency medical responder who reasonably determines or certifies that the patient's condition is such that the time needed to transport the individual by land or the lack of an appropriate ground ambulance, significantly increases the medical risks for the individual; or

“(iv) by a Federal or State agency to relocate patients following a natural disaster, an act of war, or a terrorist attack.

“(C) AIR AMBULANCE SERVICES DEFINED.—For purposes of this paragraph, the term ‘air ambulance service’ means fixed wing and rotary wing air ambulance services.”

(2) CONFORMING AMENDMENT.—Section 1861(s)(7) (42 U.S.C. 1395x(s)(7)) is amended by inserting “, subject to section 1834(l)(10),” after “but”.

(b) GROUND AMBULANCE SERVICE.—

(1) PAYMENT RATES.—

(A) IN GENERAL.—Section 1834(l)(3) (42 U.S.C. 1395m(l)(3)) is amended to read as follows:

“(3) PAYMENT RATES.—

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

“(i) PAYMENT RATES IN 2003.—

“(I) GROUND AMBULANCE SERVICES.—In the case of ground ambulance services furnished under this part in 2003, the Secretary shall set the payment rates under the fee schedule for such services at a rate based on the average costs (as determined by the Secretary on the basis of the most recent and reliable information available) incurred by full cost ambulance suppliers in providing non-emergency basic life support ambulance services covered under this title, with adjustments to the rates for other ground ambulance service levels to be determined based

on the rule established under paragraph (1). For the purposes of the preceding sentence, the term ‘full cost ambulance supplier’ means a supplier for which volunteers or other unpaid staff comprise less than 20 percent of the supplier's total staff and which receives less than 20 percent of space and other capital assets free of charge.

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

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

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

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

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

“(7) CODING SYSTEM.—

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

**SEC. 8. RURAL MENTAL HEALTH CARE ACCESSIBILITY IMPROVEMENTS.**

(a) INTERDISCIPLINARY GRANT PROGRAM.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

**“SEC. 330L. INTERDISCIPLINARY GRANT PROGRAM.**

“(a) PROGRAM AUTHORIZED.—The Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) shall award grants to eligible entities

to establish interdisciplinary training programs that include significant mental health training in rural areas for certain health care providers.

“(b) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a public university or other educational institution that provides training for mental health care providers or primary health care providers.

“(2) MENTAL HEALTH CARE PROVIDER.—The term ‘mental health care provider’ means—

“(A) a physician with postgraduate training in a residency program of psychiatry;

“(B) a licensed psychologist (as defined by the Secretary for purposes of section 1861(ii) of such Act (42 U.S.C. 1395x(ii)));;

“(C) a clinical social worker (as defined in section 1861(hh)(1) of such Act (42 U.S.C. 1395x(hh)(1))); or

“(D) a clinical nurse specialist (as defined in section 1861(aa)(5)(B) of such Act (42 U.S.C. 1395x(aa)(5)(B))).

“(3) PRIMARY HEALTH CARE PROVIDER.—The term ‘primary health care provider’ includes family practice, internal medicine, pediatrics, obstetrics and gynecology, geriatrics, and emergency medicine physicians as well as physician assistants and nurse practitioners.

“(4) RURAL AREA.—The term ‘rural area’ means a rural area as defined in section 1886(d)(2)(D) of the Social Security Act, or such an area in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), or any other geographical area that the Director designates as a rural area.

“(c) DURATION.—Grants awarded under subsection (a) shall be awarded for a period of 5 years.

“(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to administer an interdisciplinary, side-by-side training program for mental health care providers and primary health care providers, that includes providing, under appropriate supervision, health care services to patients in underserved, rural areas without regard to patients' ability to pay for such services.

“(e) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require, including—

“(1) a description of the activities which the eligible entity intends to carry out using amounts provided under the grant;

“(2) a description of the manner in which the activities funded under the grant will meet the mental health care needs of underserved rural populations within the State; and

“(3) a description of the network agreement with partnering facilities.

“(f) EVALUATIONS; REPORT.—Each eligible entity that receives a grant under this section shall submit to the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) an evaluation describing the programs authorized under this section and any other information that the Director deems appropriate. After receiving such evaluations, the Director shall submit to the appropriate committees of Congress a report describing such evaluations.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.”

(b) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.—

(1) COVERAGE OF SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (U), by striking “and” after the semicolon at the end;

(ii) in subparagraph (V)(iii), by inserting “and” after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

“(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3)).”

(B) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

“(ww)(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master’s or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

“(3) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(4) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master’s or doctor’s degree in mental health counseling or a related field;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.”

(C) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) (42 U.S.C.

1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services and mental health counselor services;”

(D) AMOUNT OF PAYMENT.—Section 1833(a)(1) (42 U.S.C. 1395(a)(1)) is amended—

(i) by striking “and (U)” and inserting “(U)”; and

(ii) by inserting before the semicolon at the end the following: “, and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(E) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—

(i) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)), as amended by section 4(b)(1)(B), is amended—

(I) in clause (i)(II), by striking “clauses (ii), (iii), and (iv)” and inserting “clauses (ii), (iii), (iv), and (v)”; and

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

“(v) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES.—Services described in this clause are marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in section 1861(ww)(3)).”

(ii) EFFECTIVE DATE.—The amendments made by clause (i) shall apply to services furnished on or after January 1, 2003.

(F) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

“(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

“(viii) A mental health counselor (as defined in section 1861(ww)(4)).”

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ww)(2)), or by a mental health counselor (as defined in subsection (ww)(4)).”

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or a marriage and family therapist (as defined in subsection (ww)(2))” after “social worker”.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting “marriage and family therapist (as defined in subsection (ww)(2))” after “social worker.”

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services furnished on or after January 1, 2004.

**SEC. 9. RURAL HEALTH SERVICES RESEARCH IMPROVEMENTS.**

(a) IN GENERAL.—Section 711(b) (42 U.S.C. 912(b)) is amended—

(1) in paragraph (3), by striking “and” after the comma at the end;

(2) in paragraph (4), by striking the period at the end and inserting “, and”; and

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

“(5) have the authority to administer grants to support rural health services research.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2004.

**SEC. 10. EXCLUSION FOR LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.**

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) LOAN PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.—Gross income shall not include any amount received under section 338B(g) of the Public Health Service Act.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received by an individual in taxable years beginning after December 31, 2002.

**SEC. 11. VIRTUAL PHARMACIST CONSULTATION SERVICE DEMONSTRATION PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term “demonstration project” means a demonstration project established by the Secretary under subsection (b)(1).

(2) DRUG.—The term “drug” means any drug or biological (as those terms are defined in section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t))), regardless of whether payment may be made for such drug or biological under the medicare program.

(3) ELIGIBLE BENEFICIARY.—The term “eligible beneficiary” means an individual enrolled under part B of the medicare program for whom a drug is being prescribed.

(4) ELIGIBLE ORIGINATING SITE.—The term “eligible originating site” means the site at which a health care provider (as defined by the Secretary) is located at the time a drug is prescribed which may be—

(A) the office of a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))) or a practitioner (as described in section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)));

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

(C) a hospital (as defined in section 1861(e) of such Act (42 U.S.C. 1395x(e))) located in a rural area (as defined in section 1886(d)(2) of such Act (42 U.S.C. 1395ww(d)(2)));

(D) a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)));

(E) a community mental health center (as described in section 1861(ff)(2)(B) of such Act (42 U.S.C. 1395x(ff)(2)(B))); or

(F) a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act).

(5) ELIGIBLE PHARMACIST.—The term “eligible pharmacist” means a pharmacist who meets such requirements as the Secretary may establish for purposes of the demonstration projects and who is a full-time employee of a school of pharmacy.

(6) MEDICARE PROGRAM.—The term “medicare program” means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(7) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(8) VIRTUAL PHARMACIST CONSULTATION SERVICE.—The term “virtual pharmacist consultation service” means professional consultations furnished by an eligible pharmacist and any additional service specified by the Secretary that is furnished by such a pharmacist.

(b) VIRTUAL PHARMACIST CONSULTATION SERVICE DEMONSTRATION PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects in accordance with the provisions of this section to provide virtual pharmacist consultation services with respect to drugs being prescribed to eligible beneficiaries.

(2) PARTICIPATION.—Any eligible pharmacist located at a school of pharmacy may furnish virtual pharmacist consultation services under the demonstration projects and any eligible originating site that does not have a pharmacist on staff may participate in the demonstration projects on a voluntary basis.

(c) PAYMENT FOR VIRTUAL PHARMACIST CONSULTATION SERVICES.—

(1) IN GENERAL.—The Secretary shall pay for virtual pharmacist consultation services that are furnished via a telecommunications system by an eligible pharmacist with respect to a drug that is being prescribed to an eligible beneficiary.

(2) PAYMENT AMOUNT.—

(A) ELIGIBLE PHARMACISTS AT SCHOOLS OF PHARMACY.—The Secretary shall pay an amount determined by the Secretary for purposes of the demonstration projects to an eligible pharmacist who furnishes a virtual pharmacist consultation service while such pharmacist is located at a school of pharmacy that furnishes a virtual pharmacist consultation service with respect to a drug prescribed to an eligible beneficiary.

(B) FACILITY FEE FOR ELIGIBLE ORIGINATING SITE.—If the Secretary determines that it is appropriate, the Secretary may pay the eligible originating site a facility fee determined by the Secretary for purposes of the demonstration projects which may not exceed the facility fee determined under section 1834(m)(2)(B) of the Social Security Act (42 U.S.C. 1395m(m)(2)(B)).

(3) NO BENEFICIARY CHARGES.—An eligible beneficiary may not be charged any amount by an eligible pharmacist, eligible originating site, the Secretary or any other individual or entity for a virtual pharmacist service furnished under a demonstration project.

(d) CONDUCT OF DEMONSTRATION PROJECTS.—

(1) DEMONSTRATION AREAS.—

(A) IN GENERAL.—The Secretary shall conduct demonstration projects in 5 demonstration areas selected on the basis of proposals submitted under subparagraph (B). Such demonstration areas shall be geographically disparate.

(B) PROPOSALS.—The Secretary shall accept proposals to furnish virtual pharmacist consultation services under the demonstration projects from any school of pharmacy that is able to furnish virtual pharmacist services to an underserved rural area.

(2) DURATION.—The Secretary shall complete the demonstration projects by the date that is 3 years after the date on which the first demonstration project is implemented.

(e) REPORT TO CONGRESS.—Not later than the date that is 6 months after the date on which the demonstration projects end, the Secretary shall submit to Congress a report on the demonstration projects together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(f) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the demonstration projects under this section, including such sums as may be necessary to develop, implement, and evaluate such projects.

By Mrs. CLINTON:

S. 1187. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require that ready-to-eat meat or poultry products that are not produced under a scientifically validated program to address *Listeria monocytogenes* be required to bear a label advising pregnant women and other at-risk consumers of the recommendations of the Department of Agriculture and the Food and Drug Administration regarding consumption of ready-to-eat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. CLINTON. 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. 1187

*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 "At-Risk Consumer Protection Through Food Safety Labeling Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) consumption of food contaminated with microbial pathogens such as bacteria, parasites, viruses, and their toxins causes an estimated 76,000,000 illnesses, 325,000 hospitalizations, and 5,000 deaths each year in the United States;

(2) Government economists estimate that illnesses from *Campylobacter*, *Salmonella*, *E. coli* O157:H7, *E. coli* non-O157:H7 STEC, *Listeria*, and *Toxoplasma gondii* cause \$6,900,000,000 in medical costs, lost productivity, and premature death in the United States each year;

(3) in particular, *Listeria monocytogenes* is the cause of 2,500 illnesses and 500 deaths annually, with economic costs of \$2,300,000,000;

(4) people that face relatively higher risks from foodborne illness and associated complications include the very young, the very old, pregnant women, and the immunocompromised, such as persons with AIDS and cancer;

(5) outbreaks of foodborne illness are becoming increasingly widespread in both geographic area and duration, making detection and containment difficult;

(6) in 1998, following a major listeriosis outbreak from deli meats, many ready-to-eat meat and poultry processors established *Listeria* testing programs, but others have no *Listeria* testing and control program at all, giving them an unfair advantage in production costs over firms that are taking steps to protect public health;

(7)(A) in 1989, the Secretary of Agriculture established a performance standard allowing zero tolerance for *Listeria monocytogenes* that prohibits detectable levels of the pathogen in ready-to-eat meat and poultry products; and

(B) a performance standard for *Listeria monocytogenes* of nondetectable levels in ready-to-eat meat products—

(i) is appropriate to protect at-risk consumers (including pregnant women) (referred to in this section as "at-risk consumers") from severe health consequences or death from exposure to *Listeria monocytogenes*; and

(ii) is necessary to provide an adequate safety margin for at-risk consumers;

(8) in February 2001, the Secretary of Agriculture proposed regulations establishing performance standards for the production of processed meat and poultry products, including requirements for controlling *Listeria monocytogenes*, but, in the time since the public comment period closed in September 2001, little progress has been made in finalizing the regulation;

(9) in 2002, an outbreak of foodborne listeriosis linked to ready-to-eat turkey deli meat in Pennsylvania, New York, New Jersey, Delaware, Maryland, Connecticut, and Michigan—

(A) sickened 53 persons;

(B) killed 8 persons; and

(C) caused at least 3 pregnant women to suffer miscarriages or stillbirths;

(10) in a March 21, 2003, speech to the North American Meat Processors, Food Safety and Inspection Service Administrator Dr. Gary McKee said the agency's December 2002 directive outlining *Listeria* testing procedures for agency inspectors is only an interim measure;

(11) to ensure the safety of at-risk consumers, ready-to-eat meat and poultry products not produced under a scientifically validated program to address *Listeria monocytogenes* should be required to bear a label advising at-risk consumers of the Government's recommendations not to consume ready-to-eat meat and poultry products without heating the products until steaming hot; and

(12) all data generated through scientifically validated programs to address *Listeria monocytogenes* should be shared with the Department of Agriculture and used to improve scientific research regarding the safety of ready-to-eat foods.

**SEC. 3. READY-TO-EAT MEAT PRODUCTS.**

(a) IN GENERAL.—Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(g) READY-TO-EAT MEAT PRODUCTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) AT-RISK CONSUMER.—The term 'at-risk consumer' includes a pregnant woman.

"(B) READY-TO-EAT MEAT PRODUCT.—The term 'ready-to-eat meat product' means a meat product that has been processed so that the meat product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

"(2) LABELING REQUIREMENT.—Except as provided in paragraph (3) or (4), a ready-to-eat meat product shall bear a label advising consumers that an at-risk consumer—

"(A) should not consume the ready-to-eat meat product unless the ready-to-eat meat product is heated until steaming hot; or

"(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

"(3) EXEMPTIONS FOR PRODUCERS.—On the motion of the Secretary or on petition of a producer of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat meat product or by order applicable to a particular producer of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

"(A) in the case of a ready-to-eat meat product that the Secretary determines presents a low risk to at-risk consumers, the producer—

"(i) has a scientifically validated program (as determined by the Secretary) to control *Listeria monocytogenes*; and

“(ii) makes all *Listeria* control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; or

“(B) in the case of any ready-to-eat meat product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat meat product has a scientifically valid program to address *Listeria* monocytogenes under which the producer—

“(i) tests food-contact surfaces for *Listeria* monocytogenes—

“(I) at least once every 2 days of production; and

“(II) if a food-contact surface tests positive—

“(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

“(bb) in accordance with such other regimen as the Secretary may specify;

“(ii) tests the plant environment in the ready-to-eat meat processing area for the *Listeria* species—

“(I) at least once every 2 days of production; and

“(II) if any part of the plant environment in the ready-to-eat meat processing area tests positive—

“(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

“(bb) in accordance with such other regimen as the Secretary may specify;

“(iii)(I) tests final products for *Listeria* monocytogenes at least 5 times per month to measure the effectiveness of the *Listeria* control program; and

“(II) if any food-contact surface tests positive, conducts daily testing of the meat product from the line found to be positive until the surface tests negative for 3 days;

“(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or meat product) available for inspection by the Secretary; and

“(v) meets any other requirement that the Secretary may specify.

“(4) EXEMPTIONS FOR DISTRIBUTORS.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat meat product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat meat product or by order applicable to a particular distributor of the ready-to-eat meat product, provide an exemption from the requirement of paragraph (2) if—

“(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

“(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

“(5) REPORTS BY THE SECRETARY.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

“(6) PERFORMANCE STANDARD.—A performance standard of the Secretary that provides zero tolerance for detectable levels of *Listeria* monocytogenes in ready-to-eat meats—

“(A) shall not be modified to permit any detectable level of *Listeria* monocytogenes in any ready-to-eat meat product; and

“(B) shall be based on scientifically validated testing methods for the detection of

*Listeria* monocytogenes, as determined by the Secretary.”.

(b) MISBRANDING.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended—

(1) in paragraph (11), by striking “or” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(13) if it is a ready-to-eat meat product that is required to bear a label under section 7(g), and it does not bear such a label.”.

#### SEC. 4. READY-TO-EAT POULTRY PRODUCTS.

(a) IN GENERAL.—Section 8 of the Poultry Products Inspection Act (21 U.S.C. 457) is amended by adding at the end the following:

“(e) READY-TO-EAT POULTRY PRODUCTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) AT-RISK CONSUMER.—The term ‘at-risk consumer’ includes a pregnant woman.

“(B) READY-TO-EAT POULTRY PRODUCT.—The term ‘ready-to-eat poultry product’ means a poultry product that has been processed so that the poultry product may be safely consumed without further preparation by the consumer, that is, without cooking or application of some other lethality treatment to destroy pathogens.

“(2) LABELING REQUIREMENT.—Except as provided in paragraph (3) or (4), a ready-to-eat poultry product shall bear a label advising consumers that an at-risk consumer—

“(A) should not consume the ready-to-eat poultry product unless the ready-to-eat poultry product is heated until steaming hot; or

“(B) should follow such other instructions as the Secretary may prescribe in accordance with health guidelines and recommendations published by the Secretary and the Secretary of Health and Human Services.

“(3) EXEMPTIONS FOR PRODUCERS.—On the motion of the Secretary or on petition of a producer of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all producers of the ready-to-eat poultry product or by order applicable to a particular producer of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

“(A) in the case of a ready-to-eat poultry product that the Secretary determines presents a low risk to at-risk consumers, the producer—

“(i) has a scientifically validated program (as determined by the Secretary) to control *Listeria* monocytogenes; and

“(ii) makes all *Listeria* control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; or

“(B) in the case of any ready-to-eat poultry product that the Secretary determines presents a greater risk to at-risk consumers, the producer of the ready-to-eat poultry product has a scientifically valid program to address *Listeria* monocytogenes under which the producer—

“(i) tests food-contact surfaces for *Listeria* monocytogenes—

“(I) at least once every 2 days of production; and

“(II) if a food-contact surface tests positive—

“(aa) at least 3 times per day until the surface tests negative on 3 consecutive days; or

“(bb) in accordance with such other regimen as the Secretary may specify;

“(ii) tests the plant environment in the ready-to-eat poultry processing area for the *Listeria* species—

“(I) at least once every 2 days of production; and

“(II) if any part of the plant environment in the ready-to-eat poultry processing area tests positive—

“(aa) at least 3 times per day until the plant environment tests negative on 3 consecutive days; or

“(bb) in accordance with such other regimen as the Secretary may specify;

“(iii)(I) tests final products for *Listeria* monocytogenes at least 5 times per month to measure the effectiveness of the *Listeria* control program; and

“(II) if any food-contact surface tests positive, conducts daily testing of the poultry product from the line found to be positive until the surface tests negative for 3 days;

“(iv) makes all control program records (including the results of any testing of plant environment, food-contact surfaces, or poultry product) available for inspection by the Secretary; and

“(v) meets any other requirement that the Secretary may specify.

“(4) EXEMPTIONS FOR DISTRIBUTORS.—On the motion of the Secretary or on petition of a distributor of a ready-to-eat poultry product, the Secretary, after notice and opportunity for a public hearing, shall, by regulation applicable to all distributors of the ready-to-eat poultry product or by order applicable to a particular distributor of the ready-to-eat poultry product, provide an exemption from the requirement of paragraph (2) if—

“(A) the distributor has purchasing specifications incorporating the requirements of paragraph (3); and

“(B) the Secretary determines that the suppliers of the distributor are in compliance with paragraph (3).

“(5) REPORTS BY THE SECRETARY.—Not later than 3 years after the date of enactment of this section, and at least triennially thereafter, the Secretary shall compile and disseminate information from records made available under paragraphs (3)(A)(ii), (3)(B)(iv), and (4) to Federal agencies, universities, and other research institutions and other entities, as appropriate (excluding any such proprietary or confidential information as is protected from disclosure), for the purpose of furthering scientific research.

“(6) PERFORMANCE STANDARD.—A performance standard of the Secretary that provides zero tolerance for detectable levels of *Listeria* monocytogenes in ready-to-eat poultry products—

“(A) shall not be modified to permit any detectable level of *Listeria* monocytogenes in any ready-to-eat poultry product; and

“(B) shall be based on scientifically validated testing methods for the detection of *Listeria* monocytogenes, as determined by the Secretary.”.

(b) MISBRANDING.—Section 4(h) of the Poultry Products Inspection Act (21 U.S.C. 453(h)) is amended—

(1) in paragraph (11), by striking “or” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(13) if it is a ready-to-eat poultry product that is required to bear a label under section 8(e), and it does not bear such a label.”.