The Anti-Sexual Predator Act of 2001, which I am introducing today, provides much-needed tools to investigators tracking sexual predators and child pornographers. The legislation will be particularly useful to investigators tracking sexual predators.

Although in many cases much of the initial relationship between these sexual predators and their child victims takes place online, the predators will ultimately seek to have personal contact with the child. Thus, the communications will move first to the telephone, and then to face to face meetings. The telephone calls between the perpetrators and the victims therefore represent a dangerous step in the laundering of the child. And the more access the sexual predator is allowed to the child victim, the greater the chance that the predator will succeed in convincing the child to continue the ‘relationship’ and agree to personal meetings.

As the laws stand today, investigators do not have access to the Federal wiretap statutes to investigate these predators. Absent this authority, law enforcement officers, upon discovery of the on-line relationship, are left to attempt to get information about the relationship from an often uncooperative or resentful child who believes that he or she is ‘in love’ with the perpetrator. Providing wiretap authority not only will aid law enforcement’s efforts to obtain evidence of these crimes, it will also help them stop these crimes before the predator makes physical contact with the child.

The Anti-Sexual Predator Act of 2001 will add three predicate offenses to the Federal wiretap statute. This addition will enable law enforcement to intercept and record communications relating to child pornography materials, the coercion and enticement of individuals to travel interstate to engage in sexual activity, the transportation of minors for the purpose of engaging in sexual activity.

To be sure, law enforcement will still need to obtain authority from a court in order to obtain a wiretap, and the court will authorize the wiretap only if the government meets the strict statutory guidelines laid out in Title III. Thus, this legislation does nothing to undermine the legitimate expectations of privacy of law-abiding American citizens.

This legislation fills a gap in our arsenal against child pornographers and sexual predators. I know we all share this goal, and I urge my colleagues to join me in expeditiously acting on this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1235

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 “Anti-Sexual Predator Act of 2001”.

SEC. 2. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AGAINST CHILDREN.

(a) CHILD PORNOGRAPHY.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting “section 2252A (relating to material constituting or containing child pornography),” after “2252 (sexual exploitation of children),”.

(b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.—Section 2423(e) of title 18, United States Code, is amended—

(1) by redesignating paragraph (p), as so redesignated by section 11101(b) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1274), as paragraph (q);

(2) by striking paragraph (p), as so redesignated by section 11101(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–545); and

(3) by inserting after paragraph (o) the following:

“(p) a violation of section 2242 (relating to coercion and enticement) or section 2423 (relating to transportation of minors) of this title, if, in connection with that violation, the sexual activity for which a person may be found guilty with a criminal offense that would constitute a felony offense under chapter 109A or 110 of this title, if that activity took place within the special maritime and territorial jurisdiction of the United States; or”.

By Mr. HATCH:

S. 1235. A bill to make clerical and other technical amendments to title 18, United States Code, and other laws relating to crime and criminal procedure; to the Committee on the Judiciary.

Mr. HATCH. 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. 1235

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 “Criminal Law Technical Amendments Act of 2001”.

SEC. 2. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) MISSING AND INCORRECT WORDS.—

(1) CORRECTION OF GARBLED SENTENCE.—Section 510(c) of title 18, United States Code, is amended by striking “proceeds from the sale of such property under this section”.

(2) INSERTION OF MISSING WORDS.—Section 981(d) of title 18, United States Code, is amended by striking “to facility” and inserting “to facilitate”.

(3) CORRECTION OF GARBLED SENTENCE.—Sections 1546(a) of title 18, United States Code, are each amended by striking “to facility” and inserting “to facilitate”.

(b) UNNECESSARY AMPERSAND LANGUAGE ON EXECUTED AMENDMENT.—Effective on the date of the enactment of Public
(A) by striking “a person who” and inserting “Whoever”;

(B) by inserting “or attempt” after “under this title”.

(5) ELIMINATION OF REDUNDANT PROVISION.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking “Code,” and inserting “Code,”;

(B) by striking “services,” and inserting “services,”.

(6) REPEAL OF SECTION GRANTING DuplicAte AUTHORITY.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of title 18, United States Code, is amended by striking the item relating to section 3503.

(7) ELIMINATION OF OUTMODeD REFERENCES TO PARTICULAR SUBSISTENT ILE.—Section 920(b) of title 18, United States Code, is amended by striking the last period.

(8) ELIMINATION OF OUTMODeD FINE AMOUNTS.—

(1) IN titLe 18, UniteD StatEs CODE.—

(A) In section 492 of title 18, United States Code, is amended by striking “not more than $100” and inserting “under this title”.

(B) In section 665(c) of title 18, United States Code, is amended by striking “not more than $5,000” and inserting “a fine under this title”.

(C) In sections 1924, 2075, 2113(b), and 2256.

(1) Section 1924(a) of title 18, United States Code, is amended by striking “not more than $1,000,” and inserting “under this title”.

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking “not more than $1,000” and inserting “under this title”.

(iii) Section 2256 of title 18, United States Code, is amended by striking “not more than $25,000” and inserting “under this title”.

(E) In section 924(e)(1), Section 924(e)(1) of title 18, United States Code, is amended by striking “not more than $25,000” and inserting “under this title”.

(2) IN THE CONTROLLED SUBSTANCES ACT.—

(A) In section 461 of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(1) in paragraph (1), by striking “and shall be fined not more than $10,000” and inserting “or fined under title 18, United States Code, or both”;

(2) in paragraph (2), by striking “and shall be fined not more than $20,000” and inserting “or fined under title 18, United States Code, or both”;

(B) In section 402—

(1) In paragraph (1), by striking “of not more than $100” and inserting “under title 18, United States Code”;

(2) in paragraph (2), by striking “of not more than $50,000” and inserting “under title 18, United States Code”.
Title 18, United States Code, is amended by striking “of not more than $30,000” and inserting “of not more than $60,000”.

(4) RULES.—The first sentence of section 3593(c) is amended by striking “(A) by striking “2271” and inserting “2721”; and (B) so that the item appears in bold face type.” and inserting “(A) in subsection (a), by striking “this section” and inserting “this chapter”; and (B) in subsection (b), by striking “this section” and inserting “this chapter”.;

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF SECTIONS CORRECTIONS.—The first sentence of section 3593(c)(3) of title 18, United States Code, is amended by striking “2721” and inserting “2711”.

(6) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 1956(c)(7)(B)(iii) of this title is amended by striking “(2)” and inserting “(3)”.

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 1212 of such title is amended by substituting “this chapter” for “this section”.

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c)(3) of title 18, United States Code, is amended by striking “in section 3633 of this title” and replacing it with “in section 3633 of this title and rule 321 of the Federal Rules of Criminal Procedure”.

(9) SECTIONS 1001 THROUGH 1011.—Section 1005 of title 18, United States Code, is amended by striking “(a) The Secretary” and inserting “(a) the Secretary”.

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 19.—Section 2252A of such title is amended by striking “section” and inserting “subsection”.

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2355.—Section 2252A(a) of title 18, United States Code, is amended by striking “2355” and inserting “2332a”.

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 3633 of this title is amended by striking “2332” and inserting “2332a”.

(13) TABLES OF SECTIONS CORRECTIONS.—The first sentence of section 3593(c)(3) of title 18, United States Code, is amended by striking “2711” and inserting “2721”.

(4) RULES.—The first sentence of section 3593(c) is amended by striking “(A) by striking “2271” and inserting “2721”; and (B) so that the item appears in bold face type.” and inserting “(A) in subsection (a), by striking “this section” and inserting “this chapter”; and (B) in subsection (b), by striking “this section” and inserting “this chapter”.;

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF SECTIONS CORRECTIONS.—The first sentence of section 3593(c)(3) of title 18, United States Code, is amended by striking “2721” and inserting “2711”.

(6) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 1956(c)(7)(B)(iii) of this title is amended by striking “(2)” and inserting “(3)”.

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 1212 of such title is amended by substituting “this chapter” for “this section”.

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c)(3) of title 18, United States Code, is amended by striking “in section 3633 of this title” and replacing it with “in section 3633 of this title and rule 321 of the Federal Rules of Criminal Procedure”.

(9) SECTIONS 1001 THROUGH 1011.—Section 1005 of title 18, United States Code, is amended by striking “(a) The Secretary” and inserting “(a) the Secretary”.

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 19.—Section 2252A of such title is amended by striking “section” and inserting “subsection”.

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2355.—Section 2252A(a) of such title is amended by striking “2355” and inserting “2332a”.

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 3633 of such title is amended by striking “2332” and inserting “2332a”.

(13) TABLES OF SECTIONS CORRECTIONS.—The first sentence of section 3593(c)(3) of such title is amended by striking “2711” and inserting “2721”.

Mr. President, I care deeply about solving the problem of gang violence and crime.

I worked extensively on this problem when I was Mayor of San Francisco and have long considered it one of my top priorities.

I am often struck by how vicious gang crimes can be, and how damaging they are to the victims and to the surrounding community.

Let me give you a couple of recent examples from my own home city of San Francisco. Last year, gang members tried to rob a passerby with an assault weapon from their car. When the victim resisted, the gang shot the victim 17 times. The victim survived but will never walk again.

Only two months before that assault, two rival gangs had a shootout in San Francisco’s Mission District. An innocent bystander was caught in the crossfire and shot through both legs.

A brave eyewitness gave law enforcement the name of one shooting suspect, who was then arrested. The gang then tracked down the witness, put a 9 millimeter automatic to his head, and threatened to kill him for cooperating with the police.

I would like to explain how this legislation will help deter and punish such crimes, and why Congress should act quickly to pass it.

First, the bill makes it a separate Federal crime to recruit persons to join a criminal street gang with the intent that the recruit participate in a Federal drug or violent crime.

The penalty is up to 10 years in jail. The offender can also be held responsible for reimbursing the government’s costs in housing, maintaining, and treating the minor until the age of 18.

The purpose of this provision is to deter criminal gang recruitment. Such recruitment has continued to grow and grow every year.

Even while crime has been dropping generally, the number of criminal gangs and gang members has spiraled.

The 1999 Justice Department survey of gangs, the most recent available, found that the number of gang members has increased 8 percent just from 1998.

In fact, the growth of criminal gangs in the country over the last 20 years, has been extraordinary.

Twenty years ago, the gang problem was centered in Los Angeles and Chicago. Today, though, there are gangs in all 50 States and the District of Columbia.

In 1980, there were gangs in 286 jurisdictions. Today, they are in over 1500 jurisdictions.

In 1980, there were about 2000 gangs. Today, there are over 26,000 gangs.

In 1980, there were about 100,000 gang members. Today, there are 400,500 gang members.

Let me read from a Department of Justice publication entitled “The

Youth gang problems in the United States grew dramatically between the 1970's and 1990's, with the prevalence of gangs reaching unprecedented levels. The growth was manifested in a steep increase in the number of cities, counties, and States reporting gang problems. Increases in the number of gang localities were paralleled by increases in the proportions and populations of localities reporting gang problems. There was a shift in regions containing larger numbers of gang cities. The Federal Bureau of Investigation showed the most dramatic increase. The size of the gang-problem localities also changed, with gang problems spreading to cities, villages, and counties smaller in size than at any time in the past.

And as gangs have increased, so have all forms of youth violence. That is because youngsters who join gangs are much more likely to commit violent crimes than similarly situated youngsters who are not in gangs.

Research shows, for example, that young people who join gangs are four to six times more likely to engage in criminal behavior when they are gang members than when they are not. And it is also because gang members are responsible for a large proportion of violent crime. They don't just commit one violent crime but many.

One study found, for example, that gang members, who were 14 percent of sample, reported committing 89 percent of all serious violent offenses in the area.

Enacting this bill would give law enforcement an important tool to deter criminal gang recruitment, thus reducing gang crime.

The bill makes it a separate Federal crime to use a minor to commit a Federal violent crime, and sets penalties for doing so.

The penalty is twice the maximum term that would otherwise be authorized for the offense or, for repeat offenders, three times the maximum penalty.

The bill also increases the minimum penalties for persons using minors to distribute drugs.

Currently, both first-time and repeat offenders can receive a minimum of only a year. Under the bill, a first-time offender will receive at least 3 years and a repeat-offender will receive at least 5 years.

These provisions are intended to deter gangers from recruiting youngsters to commit crimes.

Gangs recruit minors because they know that children are often not fully aware of the consequences of their actions.

Gangs also know that, if the child is caught, he or she will probably receive lighter punishment than an adult.

Gangs commonly start new recruits as drug couriers or runners.

Once the youngsters get older, gangs encourage them to engage in more violent activity.

And young recruits often commit violent crimes to gain the gang's respect and improve their status within the gang.

I am very troubled by the fact that many youngsters, some barely in their teens, are lured into gangs by older children and start a life of crime even before they start high school.

One study of eighth graders in 11 cities, found that 9 percent were currently gang members and 17 percent said that they had belonged to a gang at some point in their lives.

According to California law enforcement, the average age of a new gang recruit in Los Angeles is 11, in San Diego 12–15, and in San Francisco 15.

In Alabama, it is 12–14. In Virginia, it is 13. In Ohio, it is 16.

In gangs such as the Latin Kings, babies of gang members are considered gang members from birth.

A South Carolina law enforcement officer told us that he recently looked into the case of one six-year-old child, who was found wearing typical gang attire, and had a tatooed hand, and a tattooed with the phrase "Thug Life."

I believe that we need to punish gang recruitment of children very severely. This bill would do that.

The bill increases the penalties for gang members who commit drug or violent crimes and who use physical force to tamper with witnesses, victims, or informants.

The bill also generally directs the U.S. Sentencing Commission to increase penalties for criminal street gang members who commit crimes.

There is a strong link between gangs and drugs. By fighting gangs, we can help reduce the supply of illegal drugs in this country.

According to the 1999 Justice Department gang survey, almost half of youth gang members sell drugs to generate profits for the gang.

A survey of California law enforcement by my staff found that gang members in the States' largest cities are involved in 50 to 90 percent of all drug offenses.

This is confirmed by gang members themselves.

For example, in one survey of State prison inmates who were gang members, almost 70 percent said that they had manufactured, imported, or sold drugs as a group.

Worse, the DOJ 1999 gang survey found that about 40 percent of youth gangs are "drug gangs," that is, gangs organized specifically to traffic in drugs.

This is an increase from the 34 percent reported for 1998. The increase was particularly pronounced in rural areas.

There is also a close correlation between gangs and violent crimes.

For example, gangs commit about half of all violent crimes in California's major cities. In some areas of Los Angeles, such as South Central and East Los Angeles, gangs account for 70–80 percent of all violent crimes.

The increased penalties in this legislation will help reduce drug and violent crimes, including threats against witnesses and informants.

Currently, under the Federal gang statute, 18 U.S.C. 521, gang members can only get enhanced penalties for gang crimes that involve drugs or violence.

The penalty is up to an additional 10 years in jail.

This bill allows enhanced penalties for crimes that are often committed by gang members but which may not involve drugs or violence.

These crimes include distributing explosives, kidnapping, extortion, illegal gambling, money laundering, obstruction of justice, and illegally transporting guns.

The crimes act as "predicate" crimes permitting an additional charge of participating in a criminal gang.

The Federal gang statute is sort of similar in design to the criminal RICO statute. That statute permits an additional RICO charge where the defendant, as part of his or her criminal conspiracy, commits two or more predicate acts.

The bill ensures that, for gang offenses, offenders can get a sentence up to 10 years greater than the maximum term they receive for their most serious offense. They can also forfeit property derived from the offense.

The offenses added by the bill are those commonly pursued by gangs.

One study of gangs in various counties, for example, found that: 44–67 percent of gang members reported being involved in auto theft; 34–48 percent in intimidating or assaulting witnesses or victims; and 4–10 percent in kidnappings.

Other studies have found that gang extortion is also common.

Drug gangs commonly use booby traps, that sometimes include explosives, to protect their cultivation or manufacturing sites from law enforcement authorities and the public.

Numerous gangs illegally launder their illicit drug profits.

These include Russian and West African criminal gangs as well as street gangs, whose members include gang members, to protect their cultivation or manufacturing sites from law enforcement authorities and the public.

Among the worst offenders is the brutal Fuk Ching gang.

After a police crackdown in New York, law enforcement reports that Fuk Ching began to branch out to Chicago, Maryland, and western Pennsylvania.

The changes made by this legislation should help reduce drug and violent crimes.

The Travel Act allows Federal prosecutors to charge certain interstate
crimes such as extortion, bribery, and arson, and for business enterprises involving gambling, liquor, drugs, or prostitution.

This statute was passed in 1961 with Mafia-related criminal activity in mind.

This legislation amends the Travel Act to enable law enforcement to respond more effectively to the growing problem of organized, highly sophisticated, and mobile criminal street gangs.

While the Travel Act currently allows law enforcement to target some activities, such as drug trafficking, the list is not complete.

The list needs to be updated to better reflect interstate crimes often committed today by gang members.

Thus, the bill amends the Travel Act to include crimes such as drive-by shootings, serious assaults, and intimidating witnesses.

In California’s largest cities, gang members commit 80-100 percent of all drive-by shootings and around 50 percent of violent crimes.

The numbers are similar for other states as well.

A recent survey in Illinois, for example, found that 50 percent of the jurisdictions in that state face a serious problem of gang drive-by shootings.

The bill also increases the maximum penalty for most violations of the Travel Act from 5 years to 10 and authorizes the death penalty for certain homicides that technically do not qualify as murder.

Defendants who commit violent crimes covered by the act or who try to intimidate or retaliate against witnesses can get 20 years. And, if they kill someone, they can get life imprisonment or the death penalty.

The bill should ensure that prosecutors can use the Travel Act to act against crimes caused by the new Mafia: organized street gangs.

The bill would increase the penalties for using or attempting to use physical force to intimidate witnesses.

The bill would increase the maximum punishment for this crime from 10 years to 20 years.

The bill would also create a crime of threatening to use physical force against a witness.

Such a threat could be punished by up to 10 years.

Violent crimes by gang members often go unpunished because witnesses are afraid that, if they testify, gangs will kill or hurt them or their families.

For example, the Philadelphia deputy district attorney testified before Congress in 1997 that a very high number of the unsolved homicides in Philadelphia were unsolved due to gang intimidation.

One study found that intimidation of victims and witnesses was a major problem for 40-50 percent of prosecutors.

A similar study determined that witness intimidation occurs in at least 75 percent of violent crimes in gang-dominated neighborhoods.

Recently, DOJ estimated that witness intimidation has been growing since 1990 and is now a factor in about two-thirds of violent crimes committed in some gang-dominated neighborhoods.

The bill would help deter and punish victim and witness intimidation by gangs.

The bill amends several criminal statutes to address violent crimes frequently or typically committed by gangs.

Crimes include carjacking, assault, manslaughter, racketeering, murder-for-hire, and fraud against the United States.

These amendments make it easier for prosecutors to prove these crimes by eliminating or modifying the intent requirement for the crimes or by increasing the penalties for violations.

The bill permits the Attorney General to designate high-intensity interstate gang activity areas, HIIGAs, and authorizes $100,000,000 for each of 7 years for these task forces.

These provisions are modeled after similar provisions creating high intensity drug trafficking areas, HDTAs.

HIDTAs are joint efforts of local, State, and Federal law enforcement agencies whose leaders work together to assess regional drug threats, design strategies to combat those threats, and to develop initiatives to implement the strategies.

HIDTAs are based on an equal partnership between different law enforcement agencies.

HIDTAs integrate and synchronize efforts to reduce drug trafficking.

They eliminate unnecessary duplication of effort and maximize resources.

And they improve intelligence and information sharing both within and between regions.

HIDTA are necessary because drug trafficking tends to be "headquartered" in certain areas of the country, from which it spreads to other areas.

Moreover, drug traffickers have been highly organized and developed sophisticated interstate and international operations.

However, both of these points are true for criminal gangs generally.

While criminal street gangs flourish in certain urban areas such as Los Angeles and Chicago, they typically also use these cities as bases to invade more rural locales.

In addition, many gangs have gone from relatively disorganized groups of street toughs to highly disciplined, hierarchical "corporations," often encompassing numerous jurisdictions.

The Gangster Disciples Nation, for example, developed a corporate structure.

They had a chairman of the board, two boards of directors, one for prisoners and one for streets, governors, regents, wardens, and "shorties," youth who staff drug-selling sites and help with drug deals.

From 1987 to 1994, this gang was responsible for killing more than 200 people. Moreover, one-half of their arrests were for drug offenses and only one-third for nonlethal violence.

In 1996, the Gangster Disciples Nation and other Chicago-based gangs were in 110 jurisdictions in 35 States.

Southern California-based gangs are equally well-dispersed.

In 1994, gangs claiming affiliation with the Bloods or Crips, both of whom are based in Southern California, were in 180 jurisdictions in 42 states.

As a result of such dispersal, violent criminal gangs can be found in rural areas.

For example, Washington State law enforcement told us about one gang member that they traced from Compton, California to San Francisco, then to Portland, Seattle, and Billings, Montana, and finally Sioux Falls, South Dakota.

The Justice Department has found that, from the 1970s to the 1990s, the number of small cities or towns, those with populations smaller than 10,000, with gangs increased by between 15 to 20 times.

This is a larger relative increase than for cities with populations larger than 10,000.

In the 1999 National Youth Gang Survey, law enforcement estimated that almost 1 of every 5 of gang members in their area were migrants from another area.

In fact, 83 percent of respondents said that the appearance of gang members in more suburban or rural areas was caused by migration of gangsters from central cities.

Gang members even travel to countries such as Mexico and El Salvador.

The Logan Heights Gang in San Diego, for example, is currently employed by the Arellano-Felix Cartel to help guard drug shipments in Mexico.

The Logan Heights Gang has also been linked to the killing of Cardinal Juan Pasados-Ocampo in Guadalajara in 1993.

As gangs have spread into rural areas and become more interstate and international, it has become more important than ever to ensure coordination between local, state, and federal law enforcement to combat gangs.

The HIDTA program has worked well and provides a good model for the high intensity interstate gang activity area program that this bill creates.

I expect that the high intensity interstate gang activity area program will help reduce the gang problem in the same way that the HIDTA program has helped reduce the drug problem.

The bill also allows serious juvenile drug offenses to be Armed Career Criminal Act predicates.
This provision ensures that career criminals do not escape higher sentences just because their most serious drug offenses occurred when they were a juvenile.

Under this legislation, all armed career criminals will get up to the maximum statutory maximum of 15 years in jail, time which may be not reduced through suspension or probation. The bill makes the gang statute consistent with the Supreme Court’s recent opinion in Apprendi v. United States.

In that decision, the Supreme Court held that any fact that increases the penalty for a crime beyond the statutory maximum must be treated as an element of the offense.

This decision has caused some problems for law enforcement in prosecuting gang crimes. This is because the Federal gang statute has been treated as a sentence enhancement, not as a stand-alone criminal offense statute.

Before Apprendi, prosecutors would charge gang members with drug and other crimes. If they were convicted, they would then ask the court to enhance the gang membership sentence because of his or her membership in a criminal gang.

On many occasions, this sentence enhancement would go beyond the statutory maximum for the underlying offenses.

In light of Apprendi, this bill writes federal law to ensure that prosecutors can charge gang members for a separate offense under the federal gang statute.

In doing so, the bill also makes it easier for prosecutors to charge gang members by reducing the membership requirement for a criminal gang from a minimum of five members to a minimum of three members.

The bill authorizes $50,000,000 for 5 years to make grants to prosecutors’ offices to combat gang crime and youth violence.

This money will help implement this legislation by ensuring that law enforcement has the money to prosecute gang members.

This is important legislation.

I urge my colleagues to act quickly to pass it.

I would also ask unanimous consent that the text of the bill and an accompanying section-by-section description be printed in the Record.

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

S. 1236

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 “Criminal Gang Abatement Act of 2001”.

SEC. 2. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL STREET GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity

"(a) PROHIBITED ACTS.—It shall be unlawful for any person to use any facility in, or travel in, interstate or foreign commerce, or to recruit, solicit, induce, command, or cause another person to be or remain as a member of a criminal street gang, or conspire to do so, with the intent that the person being recruited, solicited, induced, commanded, or caused to be or remain a member of such gang participate in an offense described in section 521(c) of this title.

"(b) PENALTIES.—Any person who violates subsection (a) shall—

"(1) be imprisoned not more than 10 years, fined under this title, or both; and

"(2) if the person recruited, solicited, induced, commanded, or caused is a minor, at the discretion of the sentencing judge, be liable for any fine imposed under this title, the Federal Government, or by any State or local government, for housing, maintaining, and treating the person until the person attains the age of 18 years.

"(c) DEFINITIONS.—In this section:

"(1) CRIMINAL STREET GANG.—The term ‘criminal street gang’ has the meaning set forth in section 521 of this title.

"(2) MINOR.—The term ‘minor’ means a person who is less than 18 years of age.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 26 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity.

SEC. 3. PENALTIES FOR USE OF MINORS IN CRIMES OF VIOLENCE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 25. Use of minors in crimes of violence.

"(a) PENALTIES.—Whoever, being a person not less than 18 years of age, intentionally uses a minor to commit a crime of violence for which such person may be prosecuted in a court of the United States, or to assist in avoiding detection or apprehension for such an offense, shall—

"(1) be subject to twice the maximum term of imprisonment and twice the maximum fine that would otherwise be authorized for the offense; and

"(2) for the second and any subsequent conviction under this subsection, be subject to three times the maximum term of imprisonment and three times the maximum fine that would otherwise be authorized for the offense.

"(b) DEFINITIONS.—In this section:

"(1) CRIME OF VIOLENCE.—The term ‘crime of violence’ has the meaning set forth in section 16 of this title.

"(2) MINOR.—The term ‘minor’ means a person who is less than 18 years of age.

"(3) USE.—The term ‘uses’ means employs, hires, persuades, induces, entices, or coerces.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"25. Use of minors in crimes of violence.

SEC. 4. INCREASED PENALTIES FOR USING MINORS TO DISTRIBUTE DRUGS.

(a) IN GENERAL.—Section 422 of the Controlled Substances Act (21 U.S.C. 861) is amended—

"(1) in subsection (b), by striking ‘‘one year’’ and inserting ‘‘three years’’; and

"(2) in subsection (c), by striking ‘‘one year’’ and inserting ‘‘5 years’’.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended to read as follows:

"§ 521. Street gang crimes.

"(a) DEFINITIONS.—In this section:

"(1) CONVICTION.—The term ‘conviction’ includes a finding, under Federal or State law, that a person has committed an act of juvenile delinquency involving an offense described in subsection (c).

"(2) CRIMINAL STREET GANG.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal, regardless of whether or not the group or gang has a formal name.

"(A) that has as 1 of its primary purposes or activities the commission of 1 or more of the offenses described in subsection (c);

"(B) that members of the group or gang have engaged within the past 5 years in a continuing series of offenses described in subsection (c); and

"(C) as a result of which at least 1 person has been convicted of an offense described in subsection (c).

"(3) USE.—The term ‘uses’ means to offer, sell, or sell to another person to use, or have engaged in a continuing series of offenses described in subsection (c).

"(4) CRIMINAL STREET GANG.—The term ‘criminal street gang’ means an association of 3 or more persons, whether formal or informal, regardless of whether or not the group or gang has a formal name.

"(B) to promote or further the felonious activities of the criminal street gang or maintain or increase the group’s position in the gang.

"(C) has been convicted within the past 5 years of an offense described in subsection (c).

shall be imprisoned for a term that is not more than 10 years greater than the maximum term provided by statute for the most serious offense described in paragraphs (1) through (10) of subsection (c) that the person was found to have committed as a basis for the person’s conviction under this section.

(2) CONSTRUCTION WITH OTHER CONVICTIONS.—A term of imprisonment imposed under this section shall run consecutively with any term imposed upon conviction of another count under the same indictment or information for an offense described in subsection (c).

(3) FORFEITURE.—A person convicted under this section shall also forfeit to the United States, notwithstanding any provision of State law, all property, whether real or personal, derived directly or indirectly from the offense, all property used to facilitate the offense, and all property traceable thereto. The forfeiture shall be in accordance with the procedures set forth in the Federal Rules of Criminal Procedure and sections 1034 of the Controlled Substances Act (21 U.S.C. 853).

"(c) PRECINCT OFFENSES.—The offenses described in this subsection are as follows:

"(1) A Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C.
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SEC. 6. INTERSTATE AND FOREIGN TRAVEL OR THROUGH (10), if Federal jurisdiction existed.

an offense described in paragraphs (1)

amp;title.

stance.

title.

title.

titled in section 16 of this title) against the

of this title, to the extent that the offense is related
to the offense involving a controlled sub-

an offense under chapter 73 of this title.

an offense under section 274(a)(1)(A), 277, or 278 of the Immigration and Nation-


(10) A conspiracy, attempt, or solicitation to commit an offense described in paragraphs (1) through (9).

(N) State offenses that would have been an offense described in paragraphs (1) through (10), if Federal jurisdiction existed.

(AMENDMENT OF SPECIAL SENTENCING PROVISIONS) —Section 3582(d) of title 18, United States Code, is amended—

(1) by striking “chapter 95 (racketeering) or 96 (racketeer influenced and corrupt or- ganizations) of this title and inserting “section 521 or 522 (criminal street gangs) of this title, in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title,” and

(2) by inserting “a criminal street gang or before “an illegal enterprise”.

(AMENDMENT OF FOLLOWING):—Section 3663(c)(4) of title 18, United States Code, is amended by striking “chapter 46 or chapter 96 of this title” and inserting “section 521 of this title, under chapter 46 or 96 of this title.”

SEC. 7. INCREASED PENALTIES FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESS, VICTIMS, OR INFORMANTS.

(a) IN GENERAL.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “as provided in paragraph (2)” and inserting “as provided in paragraph (3)”;

(B) by redesigning paragraph (2) as para-

graph (3);

(C) by inserting after paragraph (1) the fol-

lowing:

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testi-
ymony of any person in an official proceeding; or

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object’s integ-

rity or availability for use in an official proceeding; or

(iii) eva legal process

summoning that person to appear as a witness, or to produce a record, document, or other object, in an of-

ficial proceeding;

(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

(C) hinder, delay, or prevent the commu-

nication to a law enforcement officer or judge of the United States of information re-

lating to the commission or possible com-

mission of a violation of conditions of probation, supervised release, parole, or release pending judi-

cial proceedings;

shall be punished as provided in paragraph (3); and

(D) in paragraph (3), as so redesignated—

(i) by striking “and” at the end of subpara-

graph (A), and

(ii) by striking subparagraph (B) and in-

serting the following:

(B) in the case of—

(i) an attempt to murder; or

(ii) the use, or attempted use, of physical force against any person, imprisonment for not more than twenty years; and

(C) in the case of the use of the threat of physical force against any person, imprisonment for not more than ten years;”;

(2) in subsection (b), by striking “or phys-

ical force”; and

(3) by adding at the end the following:

(1) Whoever conspires to commit any of-

fense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(2) A Federal felony crime of violence (as defined in section 16 of this title), shooting at an occupied dwelling or motor vehicle, intimidation against a wit-

ness, victim, juror, or informant,” after “ex-
tortion, bribery,”.

(b) AMENDMENT TO SENTENCING GUIDELINES— Pursuant to the authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for an increase in the offense level for violations of section 1512 of title 18, United States Code, as amended by this section.

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(B) by redesigning paragraph (2) as para-

graph (3);

(C) by inserting after paragraph (1) the fol-

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rity or availability for use in an official proceeding; or

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summoning that person to appear as a witness, or to produce a record, document, or other object, in an of-

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cial proceedings;

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(C) in the case of the use of the threat of physical force against any person, imprisonment for not more than ten years;”;

(2) in subsection (b), by striking “or phys-

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(3) by adding at the end the following:

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ness, victim, juror, or informant,” after “ex-
tortion, bribery,”.

(b) AMENDMENT TO SENTENCING GUIDELINES— Pursuant to the authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for an increase in the offense level for violations of section 1512 of title 18, United States Code, as amended by this section.

SEC. 8. OTHER VIOLENT OFFENSES FREQUENTLY COMMITTED BY GANGS.

(a) CARJACKING.—Section 2119 of title 18, United States Code, is amended by striking “, with the intent to cause death or serious bodily harm”.

(b) AMENDMENTS RELATING TO VIOLENT CRIME IN AREAS OF EXCLUSIVE FEDERAL JURISDICTION.

(1) ASSAULT WITHIN MARITIME AND TERRI-

TORIAL JURISDICTION OF UNITED STATES.—Sec-

tion 1956(a)(3) of title 18, United States Code, is amended by striking “with intent to do bodily harm”.

(2) MANSLAUGHTER.—Section 1112(b) of title 18, United States Code, is amended by striking “ten years” and inserting “twenty years”.

(c) OFFENSES WITHIN INDIAN COUNTRY.— Sec-

tion 1152(a) of title 18, United States Code, is amended by inserting “an offense for which the maximum statutory term of imprison-

ment under section 1363 of this title is great-

er than five years,” after “a felony under chapter 109A.”.

(4) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.—Section 1961(h)(A) of title 18, United States Code, is amended by inserting “or would have been sochargeable except that the act or threat (other than gambling) was committed in Indian country, as defined in section 1151 of this title, or in any other area of exclusive federal jurisdiction” after “chargeable under State law.”

(c) AMENDMENTS TO STATUTES PUNISHING VIOLENT CRIMES FOR HIRE OR IN AID OF RACK-

TEERING.

(1) MURDER-FOR-HIRE.—Section 1958(a) of title 18, United States Code, is amended by inserting “or other felony crime of violence against the person” after “murder”.

(2) VIOLENT CRIMES IN AID OF RACK-

TEERING.—Section 1959 of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (4)—

(1) by inserting “specified in paragraphs (1) through (3)” after “threatening to commit a crime of violence”; and

(II) by striking “five” and inserting “ten”; and

(ii) in paragraph (5), by striking “ten” and inserting “twenty”;

(iii) in paragraph (6), by striking “three” and inserting “ten”; and

(B) in subsection (b)—

(1) by striking “and” at the end of para-

graph (1);

(II) by striking the period at the end of para-

graph (2) and inserting “and”; and

(III) by adding at the end the following

paragraph (3):—

(3) “serious bodily injury” has the meaning set forth in section 2119 of this title.”;

(d) CONSPIRACY.—Section 371 of title 18, United States Code, is amended—

(1) by designating the first paragraph as sub-

section (a);
SEC. 11. HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.

(a) Definitions.—In this section:

(1) GOVERNOR.—The term "Governor" means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term "high intensity interstate gang activity area" means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA DESIGNATED.—

(1) DESIGNATION.—The Attorney General, upon consultation with the Secretary of the Treasury and the Governors of appropriate States, may designate as a high intensity interstate gang activity area a specified area that is located—

(A) within a State; or

(B) within the District of Columbia.

(2) ASSISTANCE.—In order to provide Federal assistance to a high intensity interstate gang activity area, the Attorney General may—

(A) facilitate the establishment of a regional task force, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, and prosecution of criminal activities of gangs and gang members in the high intensity interstate gang activity area; and

(B) direct the detailing from any Federal department or agency (subject to the approval of the head of that department or agency) of personnel to the high intensity interstate gang activity area.

(3) CRITERIA FOR DESIGNATION.—In considering an area (within a State or within more than 1 State) for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider—

(A) the extent to which gangs from the area are involved in interstate or international criminal activity;

(B) the extent to which the area is affected by criminal activity of gang members who—

(i) are located in, or have relocated from, other States; or

(ii) are located in, or have immigrated (legally or illegally) from, foreign countries; and

(C) the extent to which the area is affected by the criminal activity of gangs that originated in other States or foreign countries;

(D) the extent to which State and local law enforcement agencies have committed resources to respond to the problem of criminal gang activity in the area, as an indication of their determination to respond aggressively to the problem; and

(E) the extent to which a significant increase in the allocation of Federal resources would enhance local response to gang-related criminal activities in the area; and

(F) any other criteria that the Attorney General considers to be appropriate.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) The Attorney General is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2002 through 2008, to be used in accordance with paragraph (1).

(B) USE OF FUNDS.—Of amounts made available under paragraph (1) in each fiscal year—

(A) 60 percent shall be used to carry out subsection (b)(2); and

(B) 40 percent shall be used to make grants for community-based programs to provide crime prevention and intervention services that are designed for gang members and at-risk youth in areas designated pursuant to this section as high intensity interstate gang activity areas.

(5) REQUIREMENT.—

(A) IN GENERAL.—The Attorney General shall ensure that not less than 10 percent of amounts made available under paragraph (1) in each fiscal year are used to assist rural States affected as described in subparagraphs (B) and (C) of subsection (b)(3).

(B) RURAL STATE DEFINED.—In this paragraph, the term "rural State" means a State that is designated as a high intensity interstate gang activity area on the date of enactment of the Criminal Gang Abatement Act of 2001.
Amends 18 U.S.C. § 521 to transform it from a penalty enhancement provision to an offense and in so doing, also redefine the term “criminal street gang” to reduce the membership requirement from “3 or more persons” to “2 or more persons.” The rewriting of section 521 is in response to Apprendi v. United States, 530 U.S. 466 (2000), in which the Supreme Court held that any fact that increases the penalty for a crime beyond the statutory maximum, other than for a prior conviction, must be treated as an element of the offense.

The proposed amendment establishes ten predicate offenses traveling in interstate or foreign commerce or using any facility in interstate or foreign commerce to distribute the proceeds of any unlawful activity from five years to ten. In addition, the bill amends 18 U.S.C. § 521 to transform it from a penalty enhancement provision to an offense and in so doing, also redefine the term “criminal street gang” to reduce the membership requirement from “3 or more persons” to “2 or more persons.” The rewriting of section 521 is in response to Apprendi v. United States, 530 U.S. 466 (2000), in which the Supreme Court held that any fact that increases the penalty for a crime beyond the statutory maximum, other than for a prior conviction, must be treated as an element of the offense.

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law enforcement agencies have committed resources to address the problem of criminal gang activity in the area, the extent to which a significant increase in the allocation of Federal resources would enhance local response to gang-related criminal activity in the area, and any other criteria deemed appropriate.

After such designation, the Attorney General may direct the appointment by the Federal government to all Japanese Americans in 1942 with political affairs. This was due to the fact that they were a "threat" to national security. To this day, not one case of sabotage or espionage by Japanese Americans during World War II has been uncovered by the United States Government.

Japanese Latin Americans were not an eligible class under the Civil Liberties Act of 1948 even though they suffered under the same conditions experienced by their Japanese American counterparts. In 1996, Japanese Latin Americans sued the United States Government in Mochizuki v. the United States of America. Through the settlement of this case, the Japanese Latin Americans were eventually awarded $5,000 each, along with a letter of apology signed by President Clinton. The settlement agreement explicitly allows for further action by Congress to fund Japanese Latin American redress, in light of the fact that Japanese Americans were allowed $20,000 under the Civil Liberties Act of 1948.

My bill will allow us to correct this inequity, to grant $20,000 to eligible Japanese Latin Americans. The Japanese Latin Americans who chose to accept their $5,000 award would be offered up to an additional $15,000 each. This bill would also reauthorize the educational mandate in the Act to continue research and education efforts, ensuring that the future vibrancy of our democracy will be remembered, and hopefully, to prevent recurrences.

By Mr. WELLSTONE (for himself and Mr. DAYTON):
S. 1238. A bill to promote the engagement of young Americans in the democratic process through civic education in classrooms, in service learning programs, and in student leadership activities.

S. 1238. A bill to promote the engagement of young Americans in the democratic process through civic education in classrooms, in service learning programs, and in student leadership activities.
of the survey. In 1966, 60.3 percent of students reported an interest in political affairs. In addition, the 1998 National Assessment of Educational Progress, NAEP, Civics Assessment revealed startling results in terms of American students’ competence in civics at grade levels 4, 8, and 12. At each level, the percentage of students shown to be “Below Basic” outnumbered the percentage in the “At or above Proficient” and “Advanced” levels combined. Thirty-one percent of fourth-grade students, thirty percent of eighth-graders, and thirty-five percent of high school seniors were “Below Basic” in their civics achievement. And, a 1999 study published by the Lyndon B. Johnson School of Public Affairs at The University of Texas at Austin showed that the introduction of mandated state and civic virtue in fields, but typically not in civics, has resulted in a reduction in the amount of class time spent on civics.

Moreover, in the years after leaving high school, young Americans are becoming disconnected from civic participation in the electoral process. While 50 percent of Americans between the ages of 18 and 25 voted in 1972, only 38 percent of that age group voted in 2000. And, according to a Harvard University survey published in 2000, 85 percent of young people now say that volunteer work is better than political engagement as a way to solve important issues. It is this evidence that links this effort directly to any serious electoral reform effort. Therefore, it is time for a serious national commitment to civic education than Hubert H. Humphrey.

Hubert Humphrey exemplified the civic virtue that is a crucial ingredient of complete citizenship. His moving oratory supporting President Truman’s civil rights proposals at the 1948 Democratic National Convention helped to shift his political party and, eventually, the entire nation on one of the fundamental issues of his time. He showed fortitude in speech after speech and vote after vote on the floor of this Senate in expressing his heartfelt duty to support America’s neediest citizens. As he put it: “The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and, eventually, the entire nation on one of the fundamental issues of his time. He showed fortitude in speech after speech and vote after vote on the floor of this Senate in expressing his heartfelt duty to support America’s neediest citizens. As he put it: “The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and, eventually, the entire nation on one of the fundamental issues of his time.”

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First, in decades past, new and veteran teachers in the field of social studies had high-quality professional development opportunities made available to them through programs funded by the federal government as part of the National Defense Education Act, the Education Professional Development Act, the National Science Foundation, and other programs designed by the Department of Education. In recent years, most of these federally-funded opportunities, particularly helpful for new teachers, have disappeared. Social studies teachers, who are now nearing retirement age, have told me how crucial these programs, generally in the format of summer institutes, were in aiding their ability to excite and inform their students about civics. We need to offer the same opportunities to veteran civics teachers and the same benefits of good civics teachers to their students. Therefore, the Humphrey Act authorizes, at $25 million annually, summer Civics Institutes to promote creative curricula and pedagogy. The establishment of a new set of university and college campus-based summer institutes for teachers of all grades focused both on enlisting the teachers’ knowledge of specific content as well as helping them to teach civics in exciting ways. A way that the Federal Government can play a role in quickly making a difference in enhancing the civics classroom for America’s students.

Next, when high in quality, service learning programs have been shown to increase student efficacy in public affairs and to enhance students’ knowledge of how government works and how social change can be brought about. For instance, according to a 1997 study, high school students who participated in service learning programs were shown to be more engaged in community organizations and to vote than their nonparticipant counterparts.

Moreover, in the years after leaving high school, young Americans are becoming disconnected from civic participation in the electoral process. While 50 percent of Americans between the ages of 18 and 25 voted in 1972, only 38 percent of that age group voted in 2000. And, according to a Harvard University survey published in 2000, 85 percent of young people now say that volunteer work is better than political engagement as a way to solve important issues. It is this evidence that links this effort directly to any serious electoral reform effort. Therefore, it is time for a serious national commitment to civic education than Hubert H. Humphrey.

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learning instructors, including mid-career teachers who are interested in being retrained in service learning. Therefore, it is important to develop summer camp-based Service Learning Institutes program, to parallel the Civics Institute program. Great strides have been made in the field of service learning in recent years, even with a limited federal investment; it is time for this national investment to increase in the interest of the future vitality of our democracy.

Third, we should do more to encourage local schools’ interest in the development of community service programs that explicitly link volunteer activities to social change in their communities. Therefore, the Humphrey Act incorporates provisions of a bill introduced in the House of Representatives by Representative LINDSEY GRAHAM to make spending on community service programs an allowable use of funds for districts under the “innovative programs” section of the Elementary and Secondary Education Act. Specifically, this would allow local schools to use federal money to fund community service programs which “train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.” I applaud the philosophy and work of Do Something, a national organization founded in 1993 guided by the principle that young people could change the world if they believed in themselves and had the tools to take action. Using a project-centered approach, Do Something recognizes young people as effective leaders and, in the projects that they have promoted in hundreds of communities linking students and caring educators together, they have helped young persons turn their ideas into action. This section of the Humphrey Act would promote the work of Do Something and other local community service endeavors in schools all over the country.

Next, our Nation’s public middle-schools and high schools often miss opportunities to develop and support student governments that are viable voices for students in the operations of those schools. A 1996 study by the National Association of Secondary School Principals showed that fewer than half of high school students believed that their student government “affects decisions about co-curricular activities.” Barely one-third expressed confidence in their government’s ability to “afford decisions about school rules.” We should also be concerned about the decline in participation in student leadership activities. Between 1972 and 1992, student government participation fell by 20 percent, and work on student publications fell by 7 percent. Effective, innovative student government in which the representatives of the students are connected to the decision-making processes in the school do more than simply enhance the experiences of those students who are in the elected student leadership positions. It also sends the message to those leaders’ constituents that participation in politics and government can truly make a difference in one’s daily life. Dynamic student leadership explains, therefore, the fundamental difference in promoting the civic education within America’s middle-schools and high schools. Therefore, this bill develops a competitive grants program to provide funding for school districts to use in strengthening student government programs. In a similar manner, student engagement in local or state government activities or on school boards can be crucial in allowing young persons to experience first-hand early in their lives what it does indeed matter. At present, in some communities, high school students are explicitly involved in the activities of city government and school boards; we should do all we can to make that more common. The grant programs in this portion of the Humphrey Act, therefore, also may be used to develop innovative programs for student engagement in governmental activities.

Finally, while a variety of civics education enhancement programs have been implemented through Federal Government efforts and at the state and local level, no comprehensive, national research exists on the short- and long-term efficacy of such programs in encouraging civic knowledge and other learning or in promoting civic engagement. This contrasts with the extensive research on the effectiveness of different approaches to the teaching of reading and mathematics that has driven decisions about curricula in those fields. The final section of the legislation authorizes the Department of Education’s Office of Educational Research and Improvement, OERI, to carry out an extensive five-year research project on the frequency and efficacy of different approaches employed in civic education, with attention given to their effectiveness with different subgroups of students. These include traditional classroom-based civics education, the federally-funded “We the People.” The Citizen and the Constitution” curricular program, experiential learning programs such as the Close Up program, service learning, student government, as well as more innovative programs such as the “public works” approach to civic engagement, designed by the Hubert Humphrey Institute of Public Affairs at the University of Minnesota, that involve work on common projects of civic benefit with a focus on bringing together individuals with ideological, cultural, social, economic, and other differences in carrying out the project. So that we make wise curricular and funding decisions in the future we need to know which approaches, and combinations of approaches, to civic education are the most effective in achieving the outcomes we seek.

We should celebrate the efforts of all who have been involved in the civic education of America’s students. This bill does not denigrate their efforts. But, because the engagement in public affairs by our young people is so important for the long-term health of our democracy, it is time to take a step forward in establishing a comprehensive new federal commitment to civic education. The Humphrey Civic Education Enhancement Act combines new commitments to the professional development of civics teachers, an increase in funding for school-based service learning and the professional development of service learning teachers, local innovation in community service programs in schools, and an encouragement of a revitalized student involvement in student leadership programs and in local government. I am proud that a broad range of organizations recognize the need for this legislation and have endorsed this bill. These include the National Council of the Social Studies, the State Education Agency K–12 Service-Learning Network, the National Youth Leadership Council, Do Something, the National Community Service Corporation, Earth Force, Youth America, the American Youth Policy Forum, the National Association of Secondary School Principals, and the National Association of Student Councils.

Hubert Humphrey said, “It is not enough to merely defend democracy. To defend it may be to lose it; to extend it is to strengthen it. Democracy is not property; it is an idea.” Let us extend democracy and, in so doing, create a new generation of civic engagement. I strongly urge my colleagues to memorialize Hubert H. Humphrey and his life of civic engagement with the passage of this legislation.

By Mr. HAGEL (for himself, Mr. ENSIGN, and Mr. LUGAR):

S. 1239. A bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs; to the Committee on Finance.

Mr. HAGEL. 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. 1239

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 Rx Drug Discount and Affordable Outpatient Prescription Drugs Act of 2001.”

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

CONGRESSIONAL RECORD—SENATE 14469
Sec. 1. Short title; table of contents.

Sec. 2. Voluntary Medicare Outpatient Prescription Drug Discount and Security Program.

"PART D—VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

"Sec. 1860A. Provision of Benefit.—

"(A) IN GENERAL.—The Commissioner shall establish a Medicare Outpatient Prescription Drug Discount and Security Program under which an eligible beneficiary may voluntarily enroll and receive benefits under this part in order to be eligible to receive the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

"(B) EFFECTIVE DATE.—The effective date for the purposes of this section is January 1, 2003.

"(C) VOLUNTARY NATURE OF PROGRAM.—Nothing in this section shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

"(D) FINANCING.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1811.

"ENROLLMENT.—Subject to subparagraphs (A) through (D), any eligible beneficiary who enrolls under the program under this part shall be entitled to receive the benefits under this part in a manner so that benefits are effective for the period provided under section 1837.

"(1) PROCESS.—

"(A) IN GENERAL.—The Commissioner shall establish a process through which an eligible beneficiary who is enrolled under this part shall make an annual election to enroll with an eligible entity in order to receive benefits under this part.

"(B) RULES.—In establishing the process under subparagraph (A), the Commissioner shall use rules similar to the rules for enrollment and disenrollment with a Medicare+Choice organization.

"(C) ELIGIBLE ENTITY.—An eligible beneficiary who is enrolled under this part may elect to receive such benefits from the Medicare+Choice organization in which such beneficiary has been awarded a contract under this part.
“(3) Competition.—Eligible entities with a contract under this part shall compete for beneficiaries on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

“(c) PROVIDING INFORMATION TO BENEFICIARIES.—

“(1) ENQUIRY.—The eligible entity shall provide all of the information described in subsection (a)(1) relating to access to covered benefits.

“(2) PROVIDING INFORMATION ON FORMULARIES, PHARMACY NETWORKS, AND OTHER SERVICES.—Such information includes the following:

“(A) a description of the extent to which an eligible entity functions.

“(B) a description of any special packaging, including any fee schedule, requirements relating to covered expenses, and quality standards relating to the provision of prescription drug coverage.

“(C) RESPONSE TO BENEFICIARY QUESTIONS.—Each eligible entity offering prescription drug coverage under this part shall have a mechanism for providing a prompt response to questions from beneficiaries on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

“(d) NONDISCRIMINATION.—

“(1) Protections provided under section 1860C(a).—

“(A) IN GENERAL.—An eligible beneficiary who is eligible to enroll with an eligible entity shall be permitted to enroll under this part and with an eligible entity prior to January 1, 2003, in accordance with section 1860C(b).

“(B) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practical, the information described in subsection (a) shall ensure that eligible beneficiaries are provided with such information at least 60 days prior to the first enrollment period described in section 1860B(c).

“(E) ANNUAL ENROLLMENT FEE

“(1) IN GENERAL.—An annual enrollment fee of $25 shall be effective as of such date.

“(2) PROVIDING ENROLLMENT AND COVERAGE INFORMATION TO BENEFICIARIES

“(A) SEC. 1860D. (a) GUARANTEED ISSUE AND NONDISCRIMINATION.—

“(1) GUARANTEE OF ISSUE.—

“(A) IN GENERAL.—An eligible beneficiary who is eligible to enroll with an eligible entity under section 1860B(b) for prescription drug coverage under this part at a time during which elections are accepted under this part with respect to the coverage shall not be denied enrollment based on any health status-related factor (described in section 2792(a)(1) of the Public Health Service Act) or any other factor.

“(B) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(1), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of enrollment) shall apply to eligible entities under this subsection.

“(C) NONDISCRIMINATION.—An eligible entity offering prescription drug coverage under this part shall not discriminate in a manner that would discriminate based on health or economic status of potential enrollees.

“(D) DISSEMINATION OF INFORMATION.—

“(1) IN GENERAL.—Such information shall be made available by eligible entities with a contract under this part in accordance with section 1852(f).

“(i) enhanced beneficiary understanding of appropriate use through beneficiary education, counseling, and other appropriate means; and

“(ii) increased beneficiary adherence with prescription medication regimens through measures relating to special packaging, and other appropriate means.

“(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH MEDICARE+CHOICE ORGANIZATIONS.—An eligible entity offering prescription drug coverage under this part shall develop in cooperation with licensed pharmacists and physicians.

“(D) CONSIDERATIONS IN PHARMACY FEES.—An eligible entity offering prescription drug coverage under this part shall establish fees for pharmacists, pharmacies, and other providers services under the medication therapy management program that take into consideration resources and time used in implementing the program.

“(3) TREATMENT OF ACCREDITATION.—

“(A) SEC. 1852(e)(4) (RELATING TO TREATMENT OF ACCREDITATION) shall apply to prescription drug coverage provided under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

“(i) FULFILLMENT OF OPERATING TERMS.

“(ii) COVERAGE DETERMINATIONS, RECONSIDERATIONS, AND APPEALS.—

“(1) IN GENERAL.—An eligible entity shall meet the requirements of section 1852(e)(4)(B) with respect to covered benefits under the prescription drug coverage it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(2) APPEALS OF FORMULARY DETERMINATIONS.—Under the appeal under paragraph (1) an individual who is enrolled with an eligible entity under this part for prescription drug coverage may appeal, if the entity agrees to accept such operating terms under this part, the denial of coverage to obtain coverage for a medically necessary covered outpatient drug that is not on the formulary of the eligible entity established under subsection (c) if the prescribing physician determines that the therapeutically similar drug that is on the formulary is not effective for the enrollee or has significant adverse effects for the enrollee.

“(E) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—An eligible entity shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under a Medicare+Choice plan.

“(A) ANNUAL ENROLLMENT PERIOD

“(B) SEC. 1860E. (a) AMOUNT.

“(1) IN GENERAL.—Except as provided in subsection (c), enrollment under the program described in paragraph (1) shall be conditioned upon payment of an annual enrollment fee of $25.

“(2) ANNUAL PERCENTAGE INCREASE.—

“(A) IN GENERAL.—In the case of any calendar year beginning after 2003, the dollar amount in paragraph (1) shall be increased by an amount equal to—
PRICES.—

(1) SUCH DOLLAR AMOUNT; MULTIPLIED BY

(2) INFLATION ADJUSTMENT.—FOR PURPOSES OF SUBPARAGRAPH (A)(II), THE INFLATION

(3) ESTABLISHMENT OF BIDDING PROCESS.—THE COMMISSIONER SHALL ESTABLISH A PROCEDURE TO

(4) CATASTROPHIC BENEFIT.

D IRECT PAYMENT.—AN ELIGIBLE BENEFICIARY MAY PAY THE ANNUAL ENROLLMENT FEE DIRECTLY OR IN ANY OTHER MANNER

W AIVER.—THE COMMISSIONER SHALL WAIVE THE ENROLLMENT FEE DESCRIBED IN SUBPARA-

SEC. 1860F. (A) ACCESS TO NEXOTIATED PRICES.

NEXOTIATED PRICES.—

SUBJECT TO SUBPARAGRAPH (B), EACH ELIGIBLE ENTITY WITH A CONTRACT UNDER THIS PARAGRAPH MAY PROVIDE EACH ELIGIBLE BENEFICIARY ENROLLED WITH THE ENTITY WITH ACCES-

SEC. 1860G. (A) ESTABLISHMENT OF BIDDING PROCESS.

"(A) IN GENERAL.—AN ELIGIBLE BENEFICIARY ENTERING THIS SUBSECTION WITH MODIFIED ADJUSTED

"(B) BENEFICIARY STILL ELIGIBLE FOR DISCOUNT BENEFIT.—NOTHING IN SUBPARAGRAPH (A) SHALL BE CONSTRUED AS AFFECTING THE ELI-

"(C) PROCEDURES FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME—

"(1) IN GENERAL.—THE COMMISSIONER SHALL ESTABLISH PROCEDURES FOR DETERMINING THE MODIFIED ADJUSTED GROSS INCOME OF ELIGIBLE BENEFICIARIES ENROLLED UNDER THIS PARAGRAPH.

"(2) TERMS AND CONDITIONS.—THE COMMISSIONER SHALL ESTABLISH PROCEDURES FOR DETERMINING THE MODIFIED ADJUSTED GROSS INCOME OF ELIGIBLE BENEFICIARIES ENROLLED UNDER THIS PARAGRAPH.

"(3) DISCLOSURE OF INFORMATION.—NOTWITHSTANDING SECTION 6109(a) OF THE INTERNAL REVENUE CODE OF 1986, THE SECRETARY OF THE TREASURY IN MAKING THE DETERMINATIONS DESCRIBED IN CLAUSE (1), RETURN INFORMATION DISCLOSED UNDER THE PRECEDING SENTENCE MAY BE USED BY OFFICERS AND EMPLOYEES OF THE MEDICARE PRESCRIPTION DRUG INVESTIGATIONS DIVISION.

"(4) BIDDING PROCESS.—THE COMMISSIONER SHALL ESTABLISH A PROCEDURE TO DETERMINE THE MODIFIED ADJUSTED GROSS INCOME OF ELIGIBLE BENEFICIARIES ENROLLED UNDER THIS PARAGRAPH.

"(5) ENSURING CATASTROPHIC BENEFIT IN ALL AREAS.—THE COMMISSIONER SHALL ESTABLISH PROCEDURES TO GUARD AGAINST ELIGIBLE BENEFICIARIES BEING UNDERSERVED IN AREAS WHERE THERE ARE NO ELIGIBLE ENTITIES THAT HAVE BEEN AWARDED A CONTRACT UNDER THIS PARAGRAPH.

"(6) SELECTION OF ENTITIES TO PROVIDE PRESCRIPTION DRUG COVERAGE.

"(A) IN GENERAL.—THE COMMISSIONER SHALL ESTABLISH A PROCESS UNDER WHICH THE COMMISSIONER ACCEPTS BIDS FROM ELIGIBLE ENTITIES AND AWARDS CONTRACTS TO THE ENTITIES TO PROVIDE THE BENEFITS UNDER THIS SUBSECTION TO ELIGIBLE BENEFICIARIES IN AN AREA.

"(B) SUBMISSION OF BIDS.—EACH ELIGIBLE ENTITY DESIRING TO ENTER INTO A CONTRACT UNDER THIS SUBSECTION SHALL SUBMIT A BID TO THE COMMISSIONER.

"(C) AWARDING OF CONTRACTS.—

"(1) IN GENERAL.—THE COMMISSIONER SHALL CONSISTENT WITH THE REQUIREMENTS OF THIS PARAGRAPH AND THE GOAL OF CONTROLLING MEDICARE PROGRAM COSTS, AWARD AT LEAST 2 CONTRACTS IN EACH AREA, UNLESS ONLY 1 BIDDING ENTITY MEETS THE TERMS AND CONDITIONS SPECIFIED BY THE COMMISSIONER.

"(2) TERMS AND CONDITIONS.—THE COMMISSIONER SHALL NOT AWARD A CONTRACT TO AN ELIGIBLE ENTITY UNDER THIS SUBSECTION UNLESS THE COMMISSIONER DETERMINES THAT THE ENTITY MEETS THE TERMS AND CONDITIONS SPECIFIED BY THE COMMISSIONER.
“(3) COMPARATIVE MERITS.—In determining which entity shall be elected by the Commissioner, an entity that submits bids that meet the terms and conditions specified by the Commissioner under paragraph (2) to award a contract, the Commissioner shall consider the comparative merits of each of the bids.

“PAYMENTS TO ELIGIBLE ENTITIES FOR ADMINISTERING THE CATASTROPHIC BENEFIT

“SEC. 1860H. (a) IN GENERAL.—The Commissioner shall establish procedures for making payment to eligible entities under a contract entered into under this part for—

“(1) providing covered outpatient prescription drugs to beneficiaries eligible for the catastrophic benefit in accordance with subsection (b); and

“(2) costs incurred by the entity in administering the catastrophic benefit in accordance with subsection (c).

“(b) PAYMENT FOR COVERED OUTPATIENT PRESCRIPTION DRUGS.—

“(1) IN GENERAL.—Except as provided in subsection (c) and subject to paragraph (2), the Commissioner may only pay an eligible entity for covered outpatient drugs furnished by the entity to an eligible beneficiary enrolled with such entity under this part that is eligible for the catastrophic benefit under section 1860F(b).

“(2) LIMITATION.—(A) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the Commissioner may not make any payment for a covered outpatient drug that is not included in such formulary.

“(B) NEGOTIATED PRICES.—The Commissioner may not pay an amount for a covered outpatient drug furnished to an eligible beneficiary that exceeds the negotiated price (including applicable discounts) that the beneficiary would have been responsible for under section 1860F(a).

“(c) PAYMENT FOR ADMINISTRATIVE COSTS.—

“(1) PROCEDURES.—The procedures established under subsection (a)(1) shall provide for payment to the eligible entity of an administrative fee for each prescription filled by the entity for an eligible beneficiary.

“(A) who is enrolled with the entity; and

“(B) to whom subparagraph (A), (B), or (C) of section 1860F(b)(1) applies with respect to a covered outpatient drug.

“(2) AMOUNT.—The fee described in paragraph (1) shall be—

“(A) negotiated by the Commissioner; and

“(B) consistent with such fees paid under private sector pharmaceutical benefit contracts.

“(d) SECONDARY PAYOR PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

“DETERMINATION OF INCOME LEVELS

“SEC. 1860I. (a) PROCEDURES.—The Commissioner shall establish procedures for determining the income levels of eligible beneficiaries for purposes of sections 1860E(c) and 1860F(b).

“(b) PERIODIC REDETERMINATIONS.—Such income determinations shall be valid for a period of not less than 1 year specified by the Commissioner.

“APPROPRIATIONS

“SEC. 1860J. There are authorized to be appropriated for the following purposes, out of any money in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1861(a)(1), such amounts and in such amount as the Commissioner shall determine by the Secretary under this title and under title XIX.

“(1) APPORTIONMENT.—There shall be in the Agency a Deputy Commissioner of Medicare Prescription Drugs in this subpart referred to as the ‘Deputy Commissioner’ who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) TERM.—(A) IN GENERAL.—The Deputy Commissioner shall be appointed for a term of 6 years.

“(B) CONTINUANCE IN OFFICE.—In any case in which a successor does not take office at the end of a Deputy Commissioner’s term of office, such Deputy Commissioner may continue in office until the appointment of a successor.

“(C) DELAYED APPOINTMENT.—A Deputy Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(3) COMPENSATION.—The Deputy Commissioner shall be reimbursed at the rate provided for level I of the Executive Schedule.

“(4) DUTIES.—

“(A) IN GENERAL.—The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate.

“(B) ACTING COMMISSIONER.—The Deputy Commissioner shall be Acting Commissioner of the Agency during the absence or disability of the Commissioner, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

“(c) CHIEF ACTUARY.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—There shall be in the Agency a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner.

“(B) QUALIFICATIONS.—The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience and superior expertise in the actuarial sciences.

“(C) DUTIES.—The Chief Actuary shall serve as the chief actuarial officer of the Agency, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence.

“(D) COMPENSATION.—The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5332(b) of title 5, United States Code.

“ADMINISTRATIVE DUTIES OF THE COMMISSIONER

“SEC. 1860U. (a) PERSONNEL.—

“(1) IN GENERAL.—The Commissioner may employ, without regard to chapter 31 of title 5, United States Code, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Prescription Drug Agency.

“(2) FLEXIBILITY WITH RESPECT TO CIVIL SERVICE LAWS.—

“(A) IN GENERAL.—The staff of the Medicare Prescription Drug Agency shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, subject to subparagraph (B), shall be paid without regard to the provisions of chapters 61 and 93 of such title (relating to classification and schedule pay rates).

“(B) MAXIMUM RATE.—No case may exceed the rate of compensation determined under subparagraph (A) exceed the rate of basic pay...
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payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

‘‘(b) BUDGETARY MATTERS.—

‘‘(1) SUBMISSION OF ANNUAL BUDGET.—The Commissioner shall prepare an annual budget for the Agency, which shall be submitted by the President to Congress without revision, together with the President’s annual budget for the Agency.

‘‘(2) APPROPRIATIONS REQUESTS.—

‘‘(A) STAFFING AND PERSONNEL.—Appropriations requests for staffing and personnel of the Agency, which shall be submitted by the Commissioner and the Secretary shall be con-

‘‘(B) ADMINISTRATIVE EXPENSES.—Appropriations for administrative expenses of the Agency are authorized to be provided on a bi-

‘‘(c) SEAL OF OFFICE.—

‘‘(1) IN GENERAL.—The Commissioner shall cause a Seal of Office to be made for the Agency of such design as the Commissioner shall approve.

‘‘(2) JUDICIAL NOTICE.—Judicial notice shall be taken of the seal made under paragraph (1).

‘‘(d) DATA EXCHANGES.—

‘‘(1) DISCLOSURE OF RECORDS AND OTHER IN-

formation.—Notwithstanding any other pro-

vision of law (including subsections (b), (o), (p), (q), and (u) of section 552a of title 5, United States Code),

‘‘(A) C ONTINUANCE IN OFFICE .—A member

shall serve for more than 8 years.

‘‘(B) S TAGGERED TERMS .—The terms of service of the members initially appointed shall expire as designated by the Speaker of the House of Repre-

sentatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

‘‘(B)(1) 2 years; and

‘‘(B)(2) 6 years.

‘‘(c) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

‘‘(D) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member

may serve after the expiration of that member’s term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appoint-

ment was made.

‘‘(e) CHAIRPERSON.—A member of the Board shall be designated by the President to serve as Chairperson for a term of 4 years, coincid-

ent with the term of the President, or until the designation of a successor.

‘‘(f) EXPENSES AND PER DIEM.—Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

‘‘(g) MEETING.—

‘‘(1) IN GENERAL.—The Board shall meet at the call of the Chairperson (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as designated by the Chairperson in consultation with the other members of the Board.

‘‘(2) QUORUM.—Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

‘‘(h) FEDERAL ADVISORY COMMITTEE ACT.—The Board shall be exempt from the provi-

sions of the Federal Advisory Committee Act (5 U.S.C. App.).

‘‘(1) STAFF DIRECTOR.—The Board shall, without regard to the provisions of title 5, United States Code, relating to the competi-
tive services, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5302 of title 5, United States Code.

‘‘(2) STAFF.—

‘‘(A) IN GENERAL.—The Board may employ, without regard to chapter 31 of title 5, United States Code, such officers and em-

ployees as are necessary to administer the activities to be carried out by the Board.
SEC. 3. COMMISSIONER AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.

(a) In General.—Section 1357(b)(1) of the Social Security Act (42 U.S.C. 1395kk(b)(1)) is amended—

(1) by striking "the Secretary of Health and Human Services, and the Commissioner of Medicare Prescription Drugs, all ex officio," and inserting "the Secretary of Health and Human Services, and the Commissioner of Medicare Prescription Drugs, all ex officio;

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on March 1, 2002.

SEC. 4. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395w-21(g)) is amended—

(1) by striking "attributable to the application of section" and inserting "attributable to—

"(i) the application of section;";

(2) by striking the period and inserting "and;"; and

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

"(2) the voluntary Medicare Outpatient Prescription Drug Discount and Security Program under part D.

SEC. 5. MEDICARE APPEALS.

Section 1802 of the Social Security Act (42 U.S.C. 1395f-2) is amended by adding at the end the following new subsection:

"(v) MODERNIZATION OF MEDICARE SUPPLEMENTAL POLICIES.—

"(1) PROMULGATION OF MODEL REGULATION.—

"(A) MEDICARE Rx DISCOUNT AND SECURITY ACT OF 2001.—If, within 9 months after the date of enactment of the Medicare Rx Discount and Security Act of 2001, the National Association of Insurance Commissioners (in this subsection referred to as the NAIC) adopts a regulation described in subsection (p) to revise the benefit package classified as 'J' under the standards established by subsection (p)(2)(A) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(1)(I) so that—

"(i) the coverage for outpatient prescription drugs available under such benefit package is replaced with coverage for outpatient prescription drugs that complements but does not duplicate the benefits for outpatient prescription drugs that beneficiaries are otherwise entitled to under this title;

"(ii) a uniform format is used in the policy with respect to such revised benefits; and

"(iii) such revised standards meet any additional requirements imposed by the Medicare Rx Discount and Security Act of 2001:

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2003, as if the regulations referred to were adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation').

"(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2003, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under the Secretary under this subparagraph (such changed regulation referred to in this section as the '2003 NAIC Model Regulation').

"(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

"(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2003 NAIC Model Regulation or 2003 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

"(1) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'T' under the standards established by subsection (p)(2) (including the benefit package classified as 'T' with a high deductible feature, as described in subsection (p)(1)(I) shall be construed as providing coverage for benefits for which payment may be made under part D.

"(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

"(A) APPLICABILITY OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

By Mr. BENNETT.
Timpanogos Cave National Monument. My legislation also authorizes the construction of the necessary interagency facility. This new facility, which will be located near the mouth of American Fork Canyon in the town of Highland, UT, will not only benefit the visiting public, but will also result in better coordination between the NPS and USFS.

The legislation designed to permit certain youth to perform certain work with wood products; to the Committee on Natural Resources to move this legislation that will correct a decade old problem. I look forward to working with my distinguished colleagues, Representatives JOSEPH R. PITTS, has already passed in the House twice before. I am hopeful the Senate will also enact this important issue.

As the former Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I have strongly supported increased funding for the enforcement of the important child safety protections contained in the Fair Labor Standards Act. I also believe, however, that accommodation must be made for youths who are exempt from compulsory school-attendance laws after the eighth grade. It is extremely important that youths who are exempt from attending school until they reach the age to jobs and apprenticeships in areas that offer employment where they live.

The need for access to popular trades is demonstrated by the Amish community. In 1998, I toured an Amish sawmill in Lancaster County, PA, and had the opportunity to meet with some of my Amish constituency. In December 2000, Representative PITTS and I held a meeting in Gap, PA, with over 20 members of the Amish community to hear their concerns on this issue. On May 3, 2001, I chaired a hearing of the Labor, Health and Human Services and Education Appropriations Subcommittee to examine these issues.

At the hearing the Amish explained that while they once made their living almost entirely by farming, they have increasingly had to expand into other occupations as farmland has disappeared in many areas due to pressure from development. As a result, many of the Amish have come to rely more and more on the sawmill to make a living. The Amish culture expects youth, upon the completion of their education at the age of 14, to begin to learn a trade that will enable them to become productive members of society. In many areas, work in sawmills is one of the major occupations available for the Amish, whose belief system limits the types of jobs they may hold. Unfortunately, these youths are currently prohibited by law from employment in this industry until they reach the age of 18. This prohibition threatens both the religion and lifestyle of the Amish.

Under my legislation, youths would not be allowed to operate power machinery, but would be restricted to performing activities such as sweeping, stacking wood, and writing orders. My legislation requires that the youths must be protected from wood particles or flying debris and wear protective equipment, all while under strict adult supervision. Department of Labor must monitor these safeguards to ensure that they are enforced.

The Department of Justice has raised important issues under the Establish-
Currently airports, high speed rail, seaports, mass transit, and other transportation projects can qualify as facilities eligible for the use of tax-exempt bonds. The Spaceport Equality Act amends the Internal Revenue Code to clarify that spaceports enjoy the same favorable tax treatment.

The U.S. aerospace industry manufactures nearly 70 percent of the world’s satellites, but only 40 percent of the satellites that enter the atmosphere are launched by this country. Our Nation’s spaceports are a vital component of the infrastructure needed to expand and enhance the U.S. role in the international space arena. The Spaceport Equality Act is an important step in increasing our competitive position in this emerging industry.

This bill will stimulate investment in expanding and modernizing our Nation’s space launch facilities by lowering the cost of financing spaceport construction and renovation. Upon enactment, the bill will increase U.S. launch site capability and enhance both our economic and national security.

The commercial space market is expected to become increasingly more competitive in the next decade. The ability to have a robust space launch capability is in our best interests economically as well as strategically.

My proposal does not provide direct Federal spending to our commercial space transportation industry. Instead, it creates the conditions necessary to stimulate private sector capital investment in infrastructure. This bill offers Congress the chance to help open a new age to space, where the States and local communities can themselves take part in space transportation.

To be state of the art in space requires state of the art financing on the ground. I urge my colleagues in the Senate to join us in this important effort by co-sponsoring this bill.

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

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

s. 1243

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Spaceport Equality Act’’.

SEC. 2. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) of the Internal Revenue Code of 1986 (relating to exempt facility bonds) is amend
ed to read as follows:

‘‘(1) airports and spaceports,’’.

(b) TREATMENT OF GROUND LEASES.—Para
graph (1) of section 149(b) of the Internal Revenue Code of 1986 (relating to ground leases) is amend
ed to read as follows:

‘‘(1) spaceport property which is located on land owned by any governmental unit pursuant to a lease which is used by a governmental unit pursuant to a lease (as defined in section 168(h)(7)) from the United States shall be treated as owned by such unit if—

‘‘(i) the lease term (within the meaning of section 168(i)(3)) is at least 15 years, and
‘‘(ii) such unit would be treated as owning such property if such lease term were equal to the useful life of such property.’’.

(c) DEFINITION OF SPACEPORT.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

‘‘(1) SPACEPORT.—

‘‘(1) IN GENERAL.—For purposes of sub-
section (a)(1), the term ‘spaceport’ means—

‘‘(A) any facility directly related and es-
tential to servicing spacecraft, enabling
spacecraft to launch or reenter, or transfer-
ing passengers or space cargo to or from
spacecraft, but only if such facility is lo-
cated at, or in close proximity to, the launch
site or reentry site, and

‘‘(B) an airport functionally related and
subordinate facility at or adjacent to the
launch site or reentry site at which launch
services or reentry services are provided, in-
cluding a launch control center, repair shop,
maintenance or overhaul facility, and rocket
assembly facility.

‘‘(2) ADDITIONAL TERMS.—For purposes of
paragraph (1),

‘‘(A) SPACE CARGO.—The term ‘space cargo’
includes satellites, scientific experiments,
other property transported into space, and
any other thing whatever whether or not such
property returns from space.

‘‘(B) SPACECRAFT.—The term ‘spacecraft’
means a launch vehicle or a reentry vehicle.

‘‘(C) OTHER TERMS.—The terms ‘launch’,
‘launch site’, ‘launch services’, ‘launch vehi-
cle’, ‘payload’, ‘reentry’, ‘reentry services’,
‘reentry site’, and ‘reentry vehicle’ shall have
the respective meanings given to such terms
by section 7002 of title 49, United States Code
(as in effect on the date of enactment of this
subsection).

‘‘(D) EXCEPTION FROM FEDERALLY GUARAN-
teed Bond Prohibition.—Paragraph (3) of
section 149(b) of the Internal Revenue Code of
1986 (relating to exceptions) is amended by
adding at the end the following new subpara-
graph:

‘‘(E) EXCEPTION FOR SPACEPORTS.—Para-
graph (3) shall apply to any exempt facil-
ity bond issued as part of an issue described
in paragraph (1) of section 142(a) to provide a
spaceport in situations where—

‘‘(i) the guarantee of the United States (or
any agency or instrumentality thereof) is the
result of payment of rent, user fees, or other
charges by the United States (or any agency
or instrumentality thereof), and

‘‘(ii) the payment of the rent, user fees, or
other charges is for, and conditioned upon,
the use of the spaceport by the United States
(or any agency or instrumentality thereof)

‘‘(E) EFFECTIVE DATE.—The heading
for section 142(c) of the Internal Revenue
Code of 1986 is amended by inserting ‘‘,
SPACEPORTS,’’ after ‘‘any governmental unit’’.

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

THE SPACEPORT EQUALITY ACT
DESCRIPTION OF PRESENT LAW

Present law allows exempt facility bonds to be issued to finance certain transportation facilities, such as airports, docks and wharves, mass commuting facilities, high speed intercity rail facilities, and storage or transfer facilities storing rocket fuel or rocket propellant. For such financing, exempt facility bonds for airports, docks and wharves, mass commuting facilities, storage or transfer facilities storing rocket fuel or rocket propellant, are subject to the private activity bond volume cap. For financing exempt facility bonds for a privately-owned, high-speed intercity rail facility require private activity bond volume cap.

Amendments. The Treasury Department regulations provide that airport property eligible for exempt facility bond financing includes facilities that are directly related and essential to the servicing of aircraft, enabling aircraft to take off and land, and transferring passengers or cargo to or from aircraft, but only if the facilities are located at, or in close proximity to, the take-off and landing area. The regulations also provide that airports include other functionally related and subordinate facilities at or adjacent to the airport such as terminals, hangers, loading wharves, mass commuting facilities, high speed intercity rail facilities, and land-based navigational aids such as radar installations. Facilities, other than functionally related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or cargo from spacecraft, but only if the facilities are located at, or in close proximity to, the take-off and landing area, are not eligible for exempt facility bond financing.

Public Use Requirement. Treasury Department regulations provide that in order to qualify as an exempt facility, the facility must serve or be available on a regular basis for general public use, or be part of a facility of such a nature as to be used, as common passenger or cargo facilities, by a governmental unit to be eligible for exempt facility bond financing.

Federally Guaranteed Bonds. Bonds directly or indirectly guaranteed by the United States (or any agency or instrument thereof) are not tax-exempt. The Treasury Department has not issued detailed regulations interpreting the prohibition of federal guarantees and the scope of the prohibition.

EXPLANATION OF SPACEPORT EQUALITY ACT

The Spaceport Equality Act clarifies that spaceports are eligible for exempt facility bond financing to the same extent as airports. As in the case of airports, the facilities must be owned by a governmental unit to be eligible for such financing.

The term ‘‘spaceport’’ includes facilities functionally related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or cargo door from spacecraft, but only if the facilities are located at, or in close proximity to, the launch site. Spaceport cargo includes satellites, scientific experiments, and other property transported into space, whether or not the property is actually transported into space. The term ‘‘spaceport’’ also includes other functionally related and subordinate
facilities at or adjacent to the spacecraft, such as launch centers, repair shops, maintenance or overhaul facilities, and rocket assembly facilities that must be located at or adjacent to the launch site. The term "spaceport" includes spaceports facilities directly related to any governmentally-owned spaceport (including a spaceport owned by the U.S. Government). It is intended that spaceports shall be treated in all respects as serving the general public and will therefore satisfy the public use requirements contained in present Treasury Department regulations. It is also intended that the use of spaceport facilities by the federal government will not prevent the spaceport facilities from being treated as serving the general public, will not prevent the spaceport from being treated as owned by a government unit, and will not otherwise render such facilities ineligible for exempt facility bond financing. In addition, the amendment specifies that payment by the federal government of rent, user fees, or other charges for the use of spaceport property will not be taken into account in determining whether bonds for spaceports are federally guaranteed as long as such payments are conditioned on the use of such property and are payable unconditionally and in all events.

By Mr. KENNEDY (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. CHAFFEE, Ms. COLLINS, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. TORRICELLI, Mrs. LINCOLN, Mr. GRAHAM, Mr. BINGMAN, Mr. KERRY, Mrs. MURKOWSKI, and Mr. CONLON):

S. 1244. A bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it’s a privilege to join Senator SNOWE and Senator ROCKEFELLER and many others in introducing the Family Care Act of 2001 to expand health coverage to millions of families.

Families across America get up every day, go to work, play by the rules, and still cannot afford the health insurance they need to stay healthy and protect themselves when serious illness strikes. Family Care is a practical, common-sense solution for millions of hardworking families, and it deserves to be a national priority.

The legislation we are introducing today will provide health insurance to millions of Americans. And it does so without creating a new program or a new bureaucracy. It builds on the existing Children’s Health Insurance Program. By allowing children and their parents to enroll, we can reach the number of uninsured Americans by one-third.

Four years ago we worked together, Republicans and Democrats, to expand coverage to uninsured children in families whose income is too high for Medicaid but not enough to afford private health insurance. The Children’s Health Insurance Program has already brought quality health care to over 3 million children, and many more are eligible.

Our bill is an important step to build on that initiative. Over 80 percent of children who are uninsured or enrolled in Medicaid or CHIP have uninsured parents. Expanding CHIP to cover parents as well as children will make a huge difference to millions of working families.

We also need to do more to help sign up the large number of children who are already eligible for health coverage but have never enrolled. The numbers are dramatic. Ninety-five percent of low-income uninsured children are eligible for Medicaid or CHIP. If we can sign up these children, we can give almost every child in America a real chance at a healthy childhood.

Our legislation includes steps to make it easier for families to register and stay covered. Patients will enroll, and will enroll their children, too.

We also know many families lose coverage because complicated applications and burdensome requirements make it hard to stay insured. Our bill sees that families will have a simple application process. If they want to enroll and stay covered. Patients will enroll, and will enroll their children, too.

These are long-overdue steps to give millions more Americans the health coverage they deserve. It’s a significant step toward the day when every man, woman and child in America has health care. This is a big step for the Foundation for the Family and for the Nation. It needs both, and I’m hopeful that Congress will enact both as soon as possible.

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

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

S. 1244

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

SECTION 1. SHORT TITLE OF TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "FamilyCare Act of 2001".

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

Sec. 1. Short title of title; table of contents.
Sec. 2. Renaming of title XXI program.
Sec. 3. FamilyCare coverage of parents under the Medicaid program.
Sec. 4. Automatic enrollment of children through age 20 under the Medicaid program and title XXI.
Sec. 5. Optional coverage of legal immigrants under the Medicaid program and title XXI.
Sec. 6. Application of simplified title XXI procedures under the Medicaid program.
Sec. 7. Improvement of welfare-to-work transition under the Medicaid program.
Sec. 8. Elimination of other AFDC-related eligibility restrictions.
Sec. 9. State grant program for market innovation.
Sec. 10. Limitations on conflict of interest.
Sec. 11. Demonstration programs to improve medical and CHIP outreach to homeless individuals and families.
Sec. 12. Additional CHIP revisions.
Sec. 13. Demonstration programs to improve medical and CHIP outreach to homeless individuals and families.
Sec. 14. Technical and conforming amendments to authority to pay medicaid and CHIP expansion costs from title XXI appropriation.
Sec. 15. Additional CHIP revisions.

SEC. 2. RENAMING OF TITLE XXI PROGRAM.

(a) In General.—The heading of title XXI of the Social Security Act (42 U.S.C. 1396aa et seq.) is amended to read as follows:

"TITLE XXI—FAMILYCARE PROGRAM".

(b) Program References.—Any reference in any provision of legislation to "CHIP" or "State children’s health insurance program" under title XXI of the Social Security Act shall be deemed a reference to the FamilyCare program under such title.

SEC. 3. FAMILYCARE COVERAGE OF PARENTS UNDER THE MEDICAID PROGRAM AND TITLE XXI.

(a) Incentives To Implement FamilyCare Coverage.—

(1) Under Medicaid.—


(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

(iii) by adding at the end the following:

"(XIX) who are individuals described in subsection (k)(1) (relating to parents of categorically eligible children);"

Parents described in subsection 1902 of the Social Security Act is further amended by inserting after subsection (j) the following:

"(k)(1)(A) Individuals described in this paragraph are individuals—

(i) who are the parents of an individual who is under 19 years of age (or such higher age as the State may have elected under section 1902(h)(1)(D)) and who is eligible for medical assistance under subsection (a)(10)(A);

(ii) who are not otherwise eligible for medical assistance under such subsection, under section 1911, or under a waiver approved under section 1915 or otherwise (except under subsection (a)(10)(A)(ii)(XIX)); and

(iii) whose family income exceeds the income level applicable under the State plan under part A of title XVIII as the State may have elected under section 1115 or otherwise (except under subsection (a)(10)(A)(ii)(XIX))."

In establishing an income eligibility level for individuals described in this paragraph, a State may vary such level consistent with the various income levels established under part A of title XVIII based on the ages of children described in subsection (k)(1) in order to ensure, to the maximum extent possible, that such individuals shall be enrolled in the same program as their children.

(C) An individual may not be treated as being described in this paragraph unless, at
(D) In this subsection, the term 'parent' includes an individual treated as a caregiver or provider under section 1115.

(2) In the case of a parent described in paragraph (1) who is also the parent of a child who is eligible for child health assistance under title XXI, the State may elect (on a uniform basis) to cover all such parents under section 2111 or under this title.

(3) Parents.—The term 'parent' includes an individual treated as a caregiver for purposes of carrying out section 1931.

(4) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING FAMILYCARE.—In the case of, and with respect to, a State providing for coverage of FamilyCare assistance under this title, the following special rules apply:

(1) Any reference in this title (other than subsection (a)) to a targeted low-income child is deemed to include a reference to a targeted low-income parent.

(2) Any such reference to child health assistance with respect to such parents is deemed a reference to FamilyCare assistance.

(3) In applying section 2103(a)(3)(B) in the case of a family provided coverage under this section, the limitation on total annual aggregate cost-sharing shall be applied to the entire family.

(4) In applying section 2119(b)(4), any reference to 'section 1902(g)(2) or 1905(n)(2)' (as selected by a State) is deemed a reference to the income level applicable to parents under section 1931 or under a waiver approved under section 1115.

(5) In applying section 2102(b)(3), any reference to children is deemed a reference to parents.

(B) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING FAMILYCARE.—

(1) In general.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting, after subsection (c), the following:

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``(i) in the case of such a State other than a commonwealth or territory described in clause (ii), the same proportion as the proportion of the State's allotment under subsection (b) (determined without regard to subsection (f)) to $0.85 percent of the total amount of funds made available in subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the total amount of the allotments under such subsection for States eligible for an allotment under this subparagraph for such fiscal year; and

(ii) in the case of a commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the total amount of the allotments under such subsection for commonwealths and territories eligible for an allotment under this subparagraph for such fiscal year.

``(B) AVAILABILITY AND REDISTRIBUTION OF UNUSED ALLOTMENTS.—In applying subparagraphs (e) and (f) with respect to additional allotments made available under this subsection, the procedures established under such subsections shall ensure such additional allotments are only made available to States which have elected to provide coverage under section 2111.

``(3) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are not available for amounts expended before October 1, 2001. Such amounts are available for amounts expended on or after such date for child health assistance for targeted low-income children, as well as for FamilyCare assistance.

``(4) REQUIREMENTS TO PROVIDE FAMILYCARE COVERAGE.—No payments may be made to a State under this title from an allotment provided under this subsection unless the State has made an election to provide FamilyCare assistance.

``(ii) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(I) in subsection (a), by inserting ‘‘subject to subsection (d),’’ after ‘‘under this section,’’;

(II) in subsection (b)(1), by inserting ‘‘and subsection (d)’’ after ‘‘Subject to paragraph (4);’’ and

(III) in subsection (c)(1), by inserting ‘‘subject to subsection (d),’’ after ‘‘for a fiscal year,’’.

``(C) NO COST-SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397bb(e)(2)) is amended—

(i) in the heading, by inserting ‘‘and pregnancy-related services’’ after ‘‘preventive services’’; and

(ii) by inserting before the period at the end the following: ‘‘and for pregnancy-related services’’;

``(3) EFFECTIVE DATE.—The amendments made by this subsection apply to items and services furnished on or after October 1, 2001, whether or not regulations implementing such amendments have been issued.

``(b) RULES FOR IMPLEMENTATION BEGINNING WITH FISCAL YEAR 2005.—

``(1) REQUIRED COVERAGE OF FAMILYCARE PARENTS UNDER 100 PERCENT OF POVERTY.—The amendments made for expenditures described in paragraph (4)(A)(i) that represent the amount that would have been paid if the enhanced FMAP had not been substituted for the Federal medical assistance percentage.

``(ii) by adding at the end the following:

``(B) FAMILYCARE PARENTS UNDER 100 PERCENT OF POVERTY.—The portion of the payments made for expenditures described in paragraph (4)(A)(i) in the case of a child born to a targeted individual who is a child described in clause (i) and inserting a semicolon.

``(B) by striking at the end the following:

``(ii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C) in the case of a targeted low-income parent who is pregnant).''

``SEC. 4. AUTOMATIC ENROLLMENT OF CHILDREN BORN TO TITLE XXI PARENTS.

``(c) MAKING TITLE XXI BASE ALLOTMENTS PERMANENT.—Section 2106(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) by striking ‘‘and’’ at the end of paragraph (10); (2) by striking the period at the end of paragraph (10) and inserting ‘‘; and’’; and

(3) by adding at the end the following:

``(11) for fiscal years 2008 and each fiscal year thereafter, the amount of the allotment provided under this subsection for the preceding fiscal year increased by the percent-age increase in the average Consumer Price Index for All Urban Consumers (United States city average).’’.

``(d) OPTIONAL APLICATION OF PRESCRIPTIVE ELIGIBILITY PROVISIONS TO PARENTS.—Section 1920A of the Social Security Act (42 U.S.C. 1396a-1) is amended by adding at the end the following:

``(e) A State may elect to apply the previous provisions of this section to provide for a period of presumptive eligibility for medical assistance for a parent (as defined in paragraph (3)(c)(1) of this subsection) for a child with respect to whom such a period is provided under this subsection.''

``(e) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended, in the matter before paragraph (1)—

(1) by striking ‘‘or’’ at the end of clause (xii); (2) by inserting ‘‘or’’ at the end of clause (xiii); and

(3) by inserting after clause (xiii) the following:

``(xiv) who are parents described (or treated as described) in section 1902(k)(1);’’.

``(2) INCOME LIMITATIONS.—Section 1902(k)(4) of the Social Security Act (42 U.S.C. 1396k(f)(4)) is amended—


(B) by inserting ‘‘1902(a)(10)(A)(i)(X),’’ after ‘‘1902(a)(10)(A)(i)(IX),’’;

``(3) CONFORMING AMENDMENT RELATING TO NO WAITING PERIOD FOR PREGNANT WOMEN.—Section 2102(b)(1)(A) of the Social Security Act (42 U.S.C. 1396b(b)(1)(A)) is amended—

(1) by striking ‘‘and’’ at the end of clause (i) and inserting ‘‘; and’’; and

(2) by adding at the end the following:

``(ii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C) in the case of a targeted low-income parent who is pregnant).’’

``SEC. 5. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND THE SCHAPPEL BILL.

``(a) MEDICAID PROGRAM.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396(v)) is amended—
(1) In general.—Section 1902(a)(1)(D) of the Social Security Act (42 U.S.C. 1396a(a)(1)(D)) is amended by inserting “(or such higher age as the State has elected under section 1902(l)(1)(D)) after “19 years of age”.

(b) Title XXI.—Section 1920A(b)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(i)) is amended by inserting “(or such higher age as the State has elected under section 1902(l)(1)(D))” after “(or 1 year less than the age the State has elected under section 1902(l)(1)(D))” before the period at the end.

(E) Section 1923a(2)(A) of the Social Security Act (42 U.S.C. 1397gg–2(a)(2)(A)) is amended by inserting “(or such higher age as the State has elected under section 1902(l)(1)(D))” after “19 years of age”.

(b) Amendment made by this section take effect on October 1, 2001, and apply to medical assistance and determinations of eligibility using verification policies under subsection (a)(10)(A) and, separately, with respect to determining the eligibility of individuals for medical assistance under subsection (a)(10)(A)(i)(VIII) or (a)(10)(A)(i)(XIX), notwithstanding any other provision of this title, if the State has established a State child health plan under title XXI—

“(A) the State may not apply a resource standard;

“(B) the State shall use the same simplified eligibility form (including, if applicable, permitting application other than in person) as the State uses under such State child health plan with respect to such individuals;

“(C) the State shall provide for initial eligibility determinations of eligibility using verification policies, forms, and frequency that are no less restrictive than the policies, forms, and frequency the State uses for such purposes under such State child health plan with respect to such individuals; and

“(D) the State shall not require a face-to-face interview for purposes of initial eligibility determinations and redeterminations unless the State requires such an interview for such purposes under such child health plan with respect to such individuals.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to determinations of eligibility made on or after the date that is 1 year after the date of the enactment of this Act, whether or not regulations implementing such amendments have been issued.

(b) Presumptive Eligibility.—

(1) In general.—Section 1902A(b)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(i)) is amended by inserting “a child or children as the State has elected under subsection (l)(1)(D)” after “19 years of age” under presumption eligibility.

(2) Application to presumptive eligibility for pregnant women under Medicaid.—Section 1923b(a) of the Social Security Act (42 U.S.C. 1397gg–2(b)(1)) is amended by adding at the end after and below paragraph (2) the following clause:

“‘The term ‘qualified provider’ includes a qualified entity as defined in section 1923a(b)(3).’”.

(3) Application under title XXI.—

(a) General.—Section 1903(v)(4) of the Social Security Act (42 U.S.C. 1396s(h)(1)) is amended to read as follows:

“(D) Sections 1920 and 1920A (relating to determinations of presumptive eligibility).

(b) Conforming Amendment—

(1) Loss of Medicaid Eligibility.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking the period at the end of paragraphs (65) and inserting “; and”, and

(B) by inserting after paragraph (65) the following:

“(66) provide, in the case of a State with a State child health plan under title XXI that provides for child health assistance to a child (or a parent of a child) is discontinued under this title, a determination of whether the child (or parent) is eligible for benefits under title XXI shall be made and, if determined to be so eligible, the child (or parent) shall be automatically enrolled in the program under such title without the need for a new application.”.

(2) Loss of title XXI eligibility and coordination with Medicaid.—Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(A) in paragraph (3), by redesigning subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after paragraph (5) the following:

“(D) that before medical assistance to a child (or a parent of a child) is discontinued under this title, a determination of whether the child (or parent) is eligible for benefits under title XXI shall be made and, if determined to be so eligible, the child (or parent) shall be automatically enrolled in the program under such title without the need for a new application.”;

(B) by redesigning paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

“(4) Coordination with Medicaid.—The State shall coordinate the screening and enrollment of individuals under this title and under title XIX consistent with the following:

(A) Information that is collected under this title or under title XIX which is needed to make an eligibility determination under the other title shall be transmitted to the appropriate administering entity under such other title in a timely manner so that coverage is not delayed and families do not have to submit the same information twice. Families shall be provided the information they need to complete the application process for coverage under both titles and be given appropriate notice of any determinations made on their applications for such coverage.

(B) A State determining that there is a joint application under this title and such title, the State shall—

(i) promptly inform a child’s parent or caretaker in writing and, if appropriate, orally, that a child has been found likely to be eligible under title XIX;
(A) by striking “(But subject to subparagraph (B) after “any other provision of this title”.
(B) by redesignating the matter after “Re-
quirement.”—” as a subparagraph (A) with
the same indentation as subparagraph (B) as
added by subparagraph (C); and
(C) by adding at the end the following:
(“B) State option to waive requirement for
3 months previous receipt of medical
assistance.—A State may, at its option, either
to apply subparagraph (A) in the case of a family that has
been eligible for assistance under such program for
at least 3 months during the 6 immediately preceding months
described in such subparagraph.
(“C) applying increase or waiver of 185
percent of poverty earning limit.—Section
1925(b)(3)(A)(II)(III) of the Social Security Act
(42 U.S.C. 1396b–6(b)(3)(A)(II)(III)) is amended
(A) by inserting “(at its option)” after
“the State”; and
(B) by adding “(or such higher percent
as the State may specify)” after “185 per-
cent.”

(4) Exemption for States covering needy
families up to 185 percent of poverty.—
Section 1902(e)(1) of the Social Security Act
(42 U.S.C. 1396a(e)(1)) is amended—
(“A) in general.—At State option, the pro-
visions of this section shall not apply to a
State that uses the authority under section
1902(a)(1) in subsection (f), or otherwise to make medical assistance
available under the State plan under this
section to eligible individuals described in
section 1902(k)(1), or all individuals described in
section 1901(b)(1), and who are in families
with gross incomes (determined without re-
gard to work-related child care expenses of
such individuals) at or below 1 percent of
the income official poverty line (as defined
by the Office of Management and Budget, and
revised annually in accordance with sec-
tion 673(2) of the Omnibus Budget Reconcili-
ation Act of 1981) applicable to a family
of the size involved.

(“B) Application to other provisions of
the title.—The State plan of a State de-
scribed in paragraph (1) shall be deemed to
meet the requirements of section
1902(a)(1)(A)(I)(i)

(5) Effective date.—The amendments
made by this section take effect on October
1, 2001, or, if later, 60 days after the date
of enactment of this Act.

(1) Removal of administrative reporting
requirements for additional 6-month ex-
tension.—Section 1925(b)(2) of the Social
Security Act (42 U.S.C. 1396b–6(b)(2)) is amend-
ed—
(A) by striking subparagraph (B);
(B) in subparagraph (A)(i)—
(i) in the heading, by striking “AND
REQUIREMENTS”;
(ii) by striking “(I)” and all that follows
through “(II)” and inserting “(I)”;
(iii) by striking “(III)” and inserting “(II)”;
(iv) by redesignating such subparagraph as
subparagraph (A) (with appropriate indica-
tion); and
(C) in subparagraph (A)(i)—
(i) in the heading, by striking “REPORTING
REQUIREMENTS”;
(ii) by striking “notify the family of the
reporting requirement under subparagraph
(B)(i)” and inserting “provide the fam-
ily with notification of”; and
(iii) by redesigning such subparagraph as
subparagraph (B) (with appropriate indica-
tion).

(2) Removal of requirement for previous
receipt of medical assistance.—Section
1925(a)(1) of the Social Security Act
(42 U.S.C. 1396b–6(a)(1)) is amended—
(A) by inserting “but subject to subpara-
graph (B)” after “any other provision of this title”.

(3) Prolonging period for receipt of
medical assistance.—Section 1925(b)(3)(A)(II)
(1) in subsection (a), by adding at the end the following:
“option of 6-month initial eligibility
period.—A State may elect to treat any ref-
ference in this subsection to a 6-month period
as a reference to a 12-month period. In such a case of a family that had applied for and was
eligible for such aid for fewer than 6 months
during the 12 immediately preceding months
described in such subparagraph.

(1) IN GENERAL.—At State option, the pro-
visions of this section shall not apply to a
State that uses the authority under section
1902(a)(1) in subsection (f), or otherwise to make medical assistance
available under the State plan under this
section to eligible individuals described in
section 1902(k)(1), or all individuals described in
section 1901(b)(1), and who are in families
with gross incomes (determined without re-
gard to work-related child care expenses of
such individuals) at or below 1 percent of
the income official poverty line (as defined
by the Office of Management and Budget, and
revised annually in accordance with sec-
tion 673(2) of the Omnibus Budget Reconcili-
ation Act of 1981) applicable to a family of
the size involved.

(2) Application to other provisions of
the title.—The State plan of a State de-
scribed in paragraph (1) shall be deemed to
meet the requirements of section
1902(a)(1)(A)(I)(i)

(3) Effective date.—The amendments
made by this section take effect on October
1, 2001, whether or not regulations imple-
manting such amendments have been issued.

SEC. 9. ELIMINATION OF 100 HOUR RULE
AND OTHER ADJUDICATED ELIGIBILITY
RESTRICTIONS.

(a) IN GENERAL.—Section 1905(a)(1) of the Social Security Act
(42 U.S.C. 1396a(a)(1)) is amended, in the matter before
paragraph (1), in clause (ii), by striking “if
such child is (or would, if needy, be) a
dependent child under part A of title IV”.

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(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility determinations made on or after October 1, 2001, whether or not regulations implementing such amendments have been issued.

SEC. 10. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a program (hereafter referred to as the “program”) to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to improve access to health insurance through market reforms and other innovative means. Such innovative means may include any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies for small businesses, reinsurance pools, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.

(1) IN GENERAL.—The Secretary may not provide a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws.

(2) The State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg-91(d)(9)), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such status.

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period;

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(a) LIMITATION ON CONFLICTS OF INTEREST IN MARKETING ACTIVITIES.

(1) TITLE XXI.—Section 2105(c) of the Social Security Act (42 U.S.C. 300a-5(c)) is amended—

(b) PREFERENCES FOR SMALL BUSINESSES, REINSURANCE POOLS, OR BOTH, IN OBTAINING HEALTH INSURANCE.

(c) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

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(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

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(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.

(1) MEDICAID.—Section 1902(i) of the Social Security Act (42 U.S.C. 1396i(i)) is amended—

(b) PROHIBITION OF AFFILIATION WITH DEBARRED INDIVIDUALS.
CONGRESSIONAL RECORD—SENATE
July 25, 2001

14484

sec. 2004(c).—Section 2106(c)(1) of the Social Security Act (42 U.S.C. 1396d(o)(1)(B)) is amended by inserting another subparagraph (c) after subsection (b) and—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting appropriately;

(ii) by designating the matter beginning with “Payment may be made” as a subparagraph (A) with the heading “GENERAL” and indenting appropriately;

(iii) by adding at the end the following new subparagraphs:—

(B) APPLICATION OF REQUIREMENTS.—In carrying out subparagraph (A)—

(I) the Secretary shall not require a minimum employer contribution level that is less than or otherwise inconsistent with requirements of cost-effectiveness under subparagraph (A)(i), but a State shall identify a reasonable minimum employer contribution level that is based on data demonstrating that such a level is representative to the employer-sponsored insurance market in the State and shall monitor employer contribution levels over time to determine whether substitution is occurring and report the findings in annual reports under section 2108(a);

(ii) the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) subject to clause (iv), the State shall provide satisfactory assurances that the minimum benefits and cost-sharing protections established under this title are provided, either through the coverage under subparagraph (A) or as a supplement to such coverage;

(iv) coverage under such subparagraph shall not be considered to violate clause (iii) because it does not comply with requirements relating to reviews of health service decisions if the enrollee involved is provided the option of being provided benefits directly under this title.

(C) ACCESS TO EXTERNAL REVIEW PROCESS.—In carrying out subparagraph (A), if a State provides coverage under a group health plan that does not meet the following external review requirements, the State must provide applicants and enrollees (at initial enrollment and at each redetermination of eligibility) the option to obtain health benefits coverage other than through that group health plan:

(I) The enrollee has an opportunity for external review of a denial, delay, or reduction of health services, whether the review is conducted in person or by written communication.

(ii) subject to clause (iv), the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) the external review decision is made by an impartial contractor other than the contractor responsible for the matter subject to external review.

(iv) The external review decision shall be in writing.

(v) Applicants and enrollees are provided the option of being provided benefits directly under this title.

(D) EMPLOYER COVERAGE WAIVER CHANGES.—Section 2105(c)(3) of such Act (42 U.S.C. 1396dd(c)(3)) is amended—

(2) by designating the matter beginning with “In determining the amount of…” as a subparagraph (A) with the heading “GENERAL” and indenting appropriately;

(3) by adding at the end the following new subparagraphs:—

(B) APPLICATION OF REQUIREMENTS.—In carrying out subparagraph (A)—

(1) the Secretary shall not require a minimum employer contribution level that is less than or otherwise inconsistent with requirements of cost-effectiveness under subparagraph (A)(i), but a State shall identify a reasonable minimum employer contribution level that is based on data demonstrating that such a level is representative to the employer-sponsored insurance market in the State and shall monitor employer contribution levels over time to determine whether substitution is occurring and report the findings in annual reports under section 2108(a);

(2) the State shall establish a waiting period for coverage under a group health plan under section 1906;

(3) subject to clause (iv), the State shall provide satisfactory assurances that the minimum benefits and cost-sharing protections established under this title are provided, either through the coverage under subparagraph (A) or as a supplement to such coverage;

(4) coverage under such subparagraph shall not be considered to violate clause (iii) because it does not comply with requirements relating to reviews of health service decisions if the enrollee involved is provided the option of being provided benefits directly under this title.

(C) ACCESS TO EXTERNAL REVIEW PROCESS.—In carrying out subparagraph (A), if a State provides coverage under a group health plan that does not meet the following external review requirements, the State must provide applicants and enrollees (at initial enrollment and at each redetermination of eligibility) the option to obtain health benefits coverage other than through that group health plan:

(I) The enrollee has an opportunity for external review of a denial, delay, or reduction of health services, whether the review is conducted in person or by written communication.

(ii) subject to clause (iv), the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) the external review decision is made by an impartial contractor other than the contractor responsible for the matter subject to external review.

(iv) The external review decision shall be in writing.

(v) Applicants and enrollees are provided the option of being provided benefits directly under this title.

(E) IMPLEMENTATION.—Subsection (c) shall apply to fiscal years beginning after October 1, 2001.

SEC. 15. ADDITIONAL CHIP REVISIONS.

(a) LIMITING COST-SHARING TO 2.5 PERCENT FOR FAMILIES WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—Section 2106(c)(3)(A) of the Social Security Act (42 U.S.C. 1396d(o)(3)(A)) is amended—

(1) by striking “and” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “; and”;

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

(iii) total annual aggregate cost-sharing described in clauses (i) and (ii) with respect to all such targeted low-income children in a family under this title exceeds 2.5 percent of such family’s income for the year involved.”;

(b) REPORTING OF ENROLLMENT DATA.—Section 2105(c)(2)(A) of such Act (42 U.S.C. 1396dd(c)(2)(A)) is amended by striking “the” and—

(1) by designating the matter beginning with “Subject to subparagraph (B)” as a subparagraph (A) with the heading “GENERAL” and indenting appropriately;

(2) by adding at the end the following new subparagraphs:—

(B) APPLICATION OF REQUIREMENTS.—In carrying out subparagraph (A)—

(I) the Secretary shall not require a minimum employer contribution level that is less than or otherwise inconsistent with requirements of cost-effectiveness under subparagraph (A)(i), but a State shall identify a reasonable minimum employer contribution level that is based on data demonstrating that such a level is representative to the employer-sponsored insurance market in the State and shall monitor employer contribution levels over time to determine whether substitution is occurring and report the findings in annual reports under section 2108(a);

(ii) the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) subject to clause (iv), the State shall provide satisfactory assurances that the minimum benefits and cost-sharing protections established under this title are provided, either through the coverage under subparagraph (A) or as a supplement to such coverage;

(iv) coverage under such subparagraph shall not be considered to violate clause (iii) because it does not comply with requirements relating to reviews of health service decisions if the enrollee involved is provided the option of being provided benefits directly under this title.

(C) ACCESS TO EXTERNAL REVIEW PROCESS.—In carrying out subparagraph (A), if a State provides coverage under a group health plan that does not meet the following external review requirements, the State must provide applicants and enrollees (at initial enrollment and at each redetermination of eligibility) the option to obtain health benefits coverage other than through that group health plan:

(I) The enrollee has an opportunity for external review of a denial, delay, or reduction of health services, whether the review is conducted in person or by written communication.

(ii) subject to clause (iv), the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) the external review decision is made by an impartial contractor other than the contractor responsible for the matter subject to external review.

(iv) The external review decision shall be in writing.

(v) Applicants and enrollees are provided the option of being provided benefits directly under this title.

(D) EMPLOYER COVERAGE WAIVER CHANGES.—Section 2105(c)(3) of such Act (42 U.S.C. 1396dd(c)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting appropriately;

(2) by designating the matter beginning with “Payment may be made” as a subparagraph (A) with the heading “GENERAL” and indenting appropriately;

(3) by adding at the end the following new subparagraphs:—

(B) APPLICATION OF REQUIREMENTS.—In carrying out subparagraph (A)—

(I) the Secretary shall not require a minimum employer contribution level that is less than or otherwise inconsistent with requirements of cost-effectiveness under subparagraph (A)(i), but a State shall identify a reasonable minimum employer contribution level that is based on data demonstrating that such a level is representative to the employer-sponsored insurance market in the State and shall monitor employer contribution levels over time to determine whether substitution is occurring and report the findings in annual reports under section 2108(a);

(ii) the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) subject to clause (iv), the State shall provide satisfactory assurances that the minimum benefits and cost-sharing protections established under this title are provided, either through the coverage under subparagraph (A) or as a supplement to such coverage;

(iv) coverage under such subparagraph shall not be considered to violate clause (iii) because it does not comply with requirements relating to reviews of health service decisions if the enrollee involved is provided the option of being provided benefits directly under this title.

(C) ACCESS TO EXTERNAL REVIEW PROCESS.—In carrying out subparagraph (A), if a State provides coverage under a group health plan that does not meet the following external review requirements, the State must provide applicants and enrollees (at initial enrollment and at each redetermination of eligibility) the option to obtain health benefits coverage other than through that group health plan:

(I) The enrollee has an opportunity for external review of a denial, delay, or reduction of health services, whether the review is conducted in person or by written communication.

(ii) subject to clause (iv), the State shall establish a waiting period for coverage under a group health plan under section 1906;

(iii) the external review decision is made by an impartial contractor other than the contractor responsible for the matter subject to external review.

(iv) The external review decision shall be in writing.

(v) Applicants and enrollees are provided the option of being provided benefits directly under this title.

(E) IMPLEMENTATION.—Subsection (c) shall apply to fiscal years beginning after October 1, 2001.
CONGRESSIONAL RECORD—SENATE

July 25, 2001

Women's Emergency Network
Women's International Public Health Network
Working for Equality and Economic Liberation
YWCA of the USA
Zeta Phi Beta Sorority
Sincerely,
MARCIA D. GREENBERG,
Co-President
REGAN RALPH,
Vice President, Women's Health and Reproductive Rights.

AMERICAN ACADEMY OF PEDIATRICS,

HON. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the American Academy of Pediatrics, I am writing to express the Academy's strong support of the Family Care Act of 2001. This legislation takes critical steps toward ensuring that the entire population in the United States has access to affordable quality health care. We are pleased that you and your colleagues have put this measure forward to work with you in the coming months to ensure that the bill's provisions become law.

In addition to the important expansion of coverage options under Medicaid and SCHIP, including those for pregnant women and immigrant children and their families, we strongly endorse the numerous components of the legislation that will make getting enrolled, and staying enrolled, in Medicaid and SCHIP simpler for children and families. By expanding the types of entities that are able to perform presumptive eligibility determinations, consolidating application and enrollment procedures and providing for automatic redetermination of eligibility, states can ensure that children and families have seamless access to quality care.

We appreciate your continued attention to the health care needs of our nation's children. If we can be of assistance in your efforts, please do not hesitate to contact me at (202) 348-9760.

Sincerely,

GRAHAM NEWSOM,
Director,
Department of Federal Affairs.

NATIONAL ASSOCIATION OF CHILDREN’S HOSPITALS,

HON. EDWARD KENNEDY,
Hon. Olympia Snowe,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY AND SENATOR SNOWE: On behalf of the National Association of Children's Hospitals, which represents over 100 children's hospitals nationwide, I want to express our strong support for your introduction of the "Family Care Act of 2001."

As providers of care to all children, regardless of their economic status, children's hospitals devote more than 40% of their patient care to children who rely on Medicaid or are uninsured, and more than three-fourths of their patient-care to children with chronic and congenital conditions. These hospitals have extensive experience in assisting families to enroll eligible children in Medicaid and SCHIP. They are keenly aware of the importance of addressing the challenges that states face in enrolling this often hard to reach population of eligible children.

In particular, N.A.C.H. appreciates your effort to simplify and coordinate the application process for SCHIP and Medicaid, as well as to provide new tools for states to use in identifying and enrolling families. We strongly support your provision guaranteeing continuous 12-month eligibility for children and parents, which will address one major problem in assuring coverage for eligible children.

N.A.C.H. also applauds your provisions that continue children's coverage as the first
priority of the SCHIP program, including (1) requiring all covered children up to 200% of poverty and eliminating waiting lists in the SCHIP program before covering parents, and (2) requiring every child who loses coverage under Medicaid or SCHIP to be automatically screened for other avenues of eligibility and if found eligible, enrolled immediately in that program.

N.A.C.R. further supports your legislation’s provision to give states additional flexibility under SCHIP and Medicaid to cover legal immigrant children. In states with large numbers of uninsured children, such as California, Texas and Florida, the federal government’s bar on coverage of legal immigrant children helps contribute to the fact that Hispanic children represent the highest rate of uninsured children of all major racial and ethnic minority groups. Your provision to ensure coverage of legal immigrant children would be extremely useful in improving this situation.

N.A.C.R. greatly appreciates your efforts to provide children with the best possible chance at starting out and staying healthy. We welcome and look forward to working with you to pass the “Family Care Act of 2001.”

Sincerely,

LAWRENCE A. M’CANDLEWSKI, President and CEO.


Hon. Edward Kennedy, U.S. Senate, Washington, DC.

DEAR Senator Kennedy: On behalf of the March of Dimes, I want to commend you for introducing the “Family Care Act of 2001.” The March of Dimes is committed to increasing access to appropriate and affordable health care for women, infants and children and supports the targeted approach to expanding the State Children’s Health Insurance Program contained in the Family Care proposal.

The “Family Care Act of 2001” contains a number of beneficial provisions that would expand and improve SCHIP. The March of Dimes supports giving states the option to cover low-income pregnant women in Medicaid and SCHIP programs with an enhanced matching rate. We understand that Family Care would allow states to cover uninsured parents of children enrolled in Medicaid and SCHIP as well as uninsured first-time pregnant women. SCHIP is the only major federalally-funded program that denies coverage to pregnant women while providing coverage to their infants and children. We know prenatal care improves birth outcomes. Expanding health insurance coverage for low-income pregnant women has bipartisan support in both the House and Senate.

The March of Dimes supports Care provisions to require automatic enrollment of children born to SCHIP parents; automatic screening of every child who loses coverage under Medicaid or SCHIP to determine eligibility for other health programs; and distribution of information on the availability of Medicaid and SCHIP through the schools. The March of Dimes also supports giving states the option to provide Medicaid and SCHIP benefits to children and pregnant women who arrived legally in the United States after 1996, and to people ages 19 and 20. The National Governors Association recently endorsed this proposal as part of its legislation policy platform.

Finally, we commend you for raising issues such as the elimination of assets tests in Medicaid and CHIP for parents and children as well as providing for guaranteed continuous 12-month eligibility for parents and children enrolled in Medicaid and CHIP. While controversial, we hope states would voluntarily adopt these provisions which would provide the kind of continuity that is so important for children’s health.

We thank you for your leadership in introducing the “Family Care Act of 2001” and are eager to work with you to achieve approval of this much needed legislation.

Sincerely,

ANNA ELEANOR ROOSEVELT, Vice Chair, Board of Trustees; Chair, National Public Affairs Committee.

Dr. JENNIFER L. HOUSE, President.


Hon. Edward M. Kennedy, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR Senator Kennedy: On behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of more than 2,000 Catholic healthcare sponsors, systems, facilities, and related organizations, I write to thank you for your efforts to expand health coverage for uninsured low-income families. CHA shares your commitment to the goal of accessible and affordable care for all, and we strongly support the “Family Care Act of 2001” as an important step toward that goal.

The “Family Care Act of 2001” would allow states to extend Medicaid and State Children’s Health Insurance Program (SCHIP) coverage to parents of children already eligible for these programs. Most of these individuals are working but do not have incomes sufficient to afford the high cost of private insurance. Family Care is a cost-effective way to address this problem. Not only would it reduce the number of uninsured parents but it would also improve enrollment of uninsured low-income children in Medicaid and SCHIP at a time when more than 10 million children still do not have health coverage. While a number of states have already initiated efforts to expand SCHIP to parents and to eliminate enrollment barriers, much more needs to be done. Moreover, the additional funding called for in your bill is essential if states are to proceed with the assurance of federal support for their coverage expansion efforts.

We are also pleased that your bill would address gaps in Medicaid and SCHIP coverage for pregnant women and legal immigrants.

Catholic hospitals and healthcare systems provide inpatient and outpatient care in 48 states and more than 360 local areas. Every day we see the impact that lack of health insurance has on our ability to coordinate and provide high-quality health care. With a substantial federal surplus, Congress and the administration simply must make addressing this problem a priority.

We applaud your leadership in introducing the “Family Care Act of 2001” and look forward to working with you and your colleagues to advance this important bill.

Sincerely,

Rev. Michael D. Place, STD, President and CEO.

DEAR Senator Kennedy: We are taking this opportunity to thank you for your work on the FamilyCare Act and your intention to introduce the bill in the current Congress. We appreciate the strong support of the Children’s Defense Fund because it provides and strengthens health care coverage for uninsured children and their parents. Building on the successes of Medicaid and the Children’s Health Insurance Program (CHIP), this legislation will increase coverage for uninsured children, provide funding for health insurance coverage for the uninsured parents of Medicaid and CHIP-eligible children, and simplify the enrollment process for Medicaid and CHIP to make the programs more family-friendly.

We look forward to working with you for passage of the FamilyCare Act by the Congress.

Sincerely,

GREGG, HAIFLEY,
Deputy Director Health Division.

By Mr. Kennedy:

S. 1247. A bill to establish a grant program to promote emotional and social development and school readiness; to the Committee on Health, Education, Labor, and Pensions.

Mr. Kennedy. Mr. President, I am proud to introduce the Foundations for Learning Act. I want to thank my son, Patrick, for his leadership in developing this legislation. This bill is an extremely important piece of legislation that addresses the whole child’s early development.

There is no question that healthy emotional and social development are critical to school success. The development of curiosity, self-direction, the ability to cooperate with peers and to exhibit self-control are essential before a child can be ready to learn. Children whose lives are threatened by socioeconomic disadvantage, violence, family disruption and diagnosed disabilities are at a severe disadvantage in the classroom. There is no question these children cannot perform at their highest academic potential.

While we are all concerned about reading readiness and children’s readiness to learn, we cannot ignore the underlying factors that enable them to learn. We know that children cannot learn when they are hungry or sleepy, but rarely do we stop to think about their emotional ability to learn. Children who are angry, afraid or cannot control their own emotions, or have no sense of self-direction, and ability to resolve conflicts with peers are not ready to learn either.

Last month, a national study reported that children who receive more than 30 hours per week of non-parental child care exhibit higher levels of aggressive behavior than those who spend less than 10 hours per week in comparable settings. The study called national attention to the quality of child
care that parents entrust the care of their young children to. It also rekindled the nation’s interest in the early years and how these years can contribute to a young child’s development. As we debate investments in early care and education, we must not underestimate the need to look at the social and emotional readiness of the child that leads to later academic readiness.

Studies are showing that increasing numbers of children are unprepared to cope with the demand of school, not because they lack the academic tools, but because they lack the social skills and emotional self-regulation necessary to succeed. In a survey of kindergarten teachers, 46 percent said that at least half of their class had difficulty following directions, 34 percent reported half of the class or more had difficulty working in groups, and 20 percent said at least half of the class had problems with social skills. Is it a surprise that children who cannot follow simple directions and get along with their peers cannot learn to read?

According to the latest data, 61 percent of children under age 4 are in regularly scheduled child care. With such a high percentage of our youngest children in child care and with such certainty as we have that early care and education has a long-lasting if not permanent impact on an individual’s social and academic development, we cannot deny the necessity of ensuring that those providers are equipped to work with all of our children including those with emotional and behavioral problems.

Neither can we deny that the most important relationship in a child’s life is the one with his or her parents. It is absolutely essential to the child’s future and to society that the parent–child relationship be as healthy as possible. Without a close, dependable relationship with a healthy and responsible adult, a child’s potential for growth could be severely and permanently impaired. We must provide high quality education and support not only for children but also for their parents.

The goal of this legislation is to enable all children to enter school ready to learn by focusing on the social and emotional development of children ages 0-5. To do this bill would accomplish this by: providing family support initiatives such as parent training and home visitation to provide intensive early interventions to families at-risk children; providing consultations and professional development opportunities for child care workers and hiring of behavioral specialists by early childhood service providers to enhance the quality of services to children.

This bill will help communities lay the foundation for school readiness by providing funding to integrate emotional and social development support services into early childhood programs and strengthening the capacity of parents to constructively manage behavioral problems.

Study after study has shown that intervention can work to increase the quality of early care and educational experiences that children receive. Study after study has shown that financial resources are essential to improving quality of early care and education. Study after study has shown that investments in young children can save costs of adolescents’ incarceration tomorrow. Investing in young children at most weeks to address the we’re serious about adequately preparing our children for school and for life, we must provide communities, families, child care providers with the necessary resources to support the development of a healthy whole child.

I hope that my colleagues will join me in supporting and pushing this important legislation.

By Mr. KERRY (for himself, Mr. CHAFEE, Mr. REED, Mr. JEFORDS, Mr. SARBANES, Mr. LEAHY, Mr. WELLSTONE, Mr. DAYTON, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Ms. STABENOW, Mrs. BOXER, Mr. KENNEDY, Mr. CORZINE, and Mr. DODD):

S. 1248. A bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, low-income families, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KERRY. Mr. President, our Nation is facing an affordable housing crisis. Recent changes in the housing market have limited the availability of affordable housing across the country while the growth in our economy in the last decade has dramatically increased the cost of housing that remains. That is why, along with sixteen cosponsors, I am proud to introduce S. 1248 the Affordable Housing Trust Fund.

This bill will help pay the rent for a two-bedroom apartment in the United States. There is not one metropolitan area in the country where a minimum wage earner can afford to pay the rent for a two-bedroom apartment. This hourly figure is dramatically higher in many metropolitan areas, an hourly wage of $22 is needed in San Francisco; $21 on Long Island; $17 in Boston; $16 in the D.C. area; $14 in Seattle and Chicago; and, $13 in Atlanta.

Mikala Bemberry is a single mother with two boys who now lives in Framingham, MA. Her family’s housing story is not unique for many low-and
We can no longer ignore the lack of affordable housing, and the impact it is having on families and children around the country. It is not clear to me why this lack of housing has not caused more uproar. How many families need to be pushed out of their homes and into the streets, before action is taken. I believe it is time for our Nation to take a new path, one that ensures that every American, especially our children, has the opportunity to live in decent and safe housing. Everyone knows that decent housing, along with neighborhood and living environment, play enormous roles in shaping young lives. Federal housing assistance, has benefited millions of low-income children across the nation and has helped in developing stable home environments. However, too many children currently live in families that have substandard housing or are homeless. Children are less likely to do well in school and less likely to be productive citizens. Because of the positive affect that this legislation would have on America’s children, the Trust Fund was included in the Act to Leave No Child Behind, a comprehensive proposal by the Children’s Defense Fund to assist in the development of our Nation’s children.

I also believe that our Nation deserves a program that would assist in maintaining the affordable housing stock that already exists. I am working with Senator JAMES JEFFORDS in developing legislation to help preserve our affordable housing stock. It is my hope that this legislation will be taken up and passed this Congress so that we can avoid losing any more affordable units. However, we must also focus on producing additional housing, which is exactly what this Housing Trust Fund will do.

I urge you to support this legislation which restores our commitment to providing affordable housing for all families. We can no longer turn our backs on those families who struggle every day just to put a roof over their heads.

Mr. LEAHY. Mr. President, I rise today in support of the National Affordable Housing Trust Fund Act of 2001. This is an important piece of legislation that will help address the lack of affordable housing available in our Nation today.

For far too long we have neglected our Nation’s stock of affordable housing, allowing too many properties to fall by the wayside. Between 1985 to 1997 the nation lost 870,000 affordable rental units, nearly 5 percent of the housing available to low-income families. These homes were lost to deterioration, demolition, or simply because landlords opted out of Federal programs in order to secure more lucrative tenants.

Unfortunately these units were not replaced at a pace adequate enough to address the need. Our most vulnerable
ward to working with my colleagues to ensure that the final product is fair and equitable to all regions of the country, including rural and small states.

I urge my colleagues to join me in support of this legislation.

By Mr. WELLSSTONE (for himself, Mrs. MURRAY, Mr. SCHUMER, Mr. DODD, Mr. DAYTON, Mrs. CLINTON, and Mr. INOUYE): S. 1249. A bill to promote the economic security and safety of victims of domestic and sexual violence, and for other purposes; to the Committee on Finance.

Mr. WELLSSTONE. Mr. President, along with my colleagues, Senators MURRAY, SCHUMER, DODD, DAYTON, CLINTON, and Bresee introduced legislation that if adopted would have a most profound and even life-saving effect on people who are victims of domestic and sexual violence and their families. It is called the Victims’ Economic Security and Safety Act. Similar to the Battered Women’s Economic Security and Safety Act, which I introduced last session, the legislation acknowledges that the impact of domestic and sexual violence extends far beyond the moment the abuse occurs. It strikes at the heart of victims’ and their families’ economic self-sufficiency. As a result, many victims are unable to provide for their own or their children’s safety. Too often they are forced to choose between protecting themselves from abuse and keeping a roof over their head. This is a choice that no mother should have to make. Nor should any person face the double tragedy of first being abused and then losing a job, health insurance or any other means of sufficiency because they were abused.

In response to this cycle of violence and dependence, and in response to domestic and sexual violence’s devastating impact on a victim’s financial independence, this legislation would help to ensure the economic security of victims of domestic violence, sexual assault and stalking so they are better able to provide permanent safety for themselves and their children and so they are not forced, because of economic dependence, to stay in an abusive relationship. In the fight against violence against women, and after the passage of the Violence Against Women Act of 2000, this legislation is a next, critical step.

The link between poverty and domestic and sexual abuse is clear. For example, according to the United States Conference of Mayors, domestic violence is the fourth leading cause of homelessness. A 2000 study conducted by the Manpower Research and Development Corporation of Minnesota’s welfare program, the Minnesota Family Investment Program, showed that 49 percent of single-parent long term recipients were in abusive relationships while they were receiving or had recently been receiving MFIP benefits. A 1998 OAC study found that women compared with women who report never experiencing abuse, women who report having been abused experience more spells of unemployment; greater job turnover; and significantly higher rates of receipt of welfare, Medicaid and food stamps.

Economic dependence is a clear reason people who are in abusive relationships may return to abusers or even may not be able to leave abusive situations in the first place. Abusers will go to great lengths to sabotage their partner’s ability to have a job or get an education so that their partners will remain dependent on them. If we want battered women and victims of sexual violence to be able to get away from the dangerous, often life-threatening situations in which they are trapped, they need the economic means to do so. Yet, victims of domestic and sexual violence face very serious challenges to their self-sufficiency.

Multiple studies of domestic violence victims who were working while being abused found that as many as 60 percent of respondents said they had been reprimanded at work for behaviors related to the abuse, such as being late to work, and as many as 52 percent said they had lost their jobs because of the abuse. Almost 50 percent of sexual assault survivors reported they had lost their jobs or were forced to quit in the aftermath of the assaults. A study from the National Workplace Resource Center on Domestic Violence found that abusive husbands and partners harass 74 percent of employed battered women at work.

The effects of this are felt not only by the victims of such abuse and their families, but also by employers and the nation as a whole. From the perspective of employers, a 1999 CNN report found that 37 percent of domestic violence victims said that domestic violence impacted their ability to do their job and 24 percent said it caused them to be late for work. A survey of employers confirmed this—49 percent of corporate executives said that domestic violence harmed their company’s productivity. The Bureau of Labor Affairs has estimated that domestic violence costs employers between $3 billion and $5 billion in lost time and productivity each year. Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern, and homicide continues to be the leading cause of death of women in the workplace. The United States Department of Labor, in 2000 released that Domestic Violence accounted for 27 percent of all incidents of workplace violence.

More generally, prior to 1994, the Congress gathered years of testimony...
and evidence as to the negative impact of gender violence in the national economy and found that gender violence costs the United States billions of dollars per year.

Victims need to be able to deal with these problems without fear of being fired and without fear of losing their livelihoods and their children’s livelihoods. Corporations, too, need to be able to ensure their employee’s safety and productivity. That is the goal of this legislation. VESSA would help break down the economic barriers that prevent victims from leaving their batterer or abuser, protect victims from violence in the workplace, and mitigate the negative economic effects of violence on employers and on the national economy.

The bill would provide emergency leave for employees who need to address an abusive situation. The victim must have a reasonable belief that the abuser will cause physical harm. That way, if a victim had to go to court to get a restraining order or leave work to find shelter, the victim could take leave without facing the prospect of being fired, demoted or financially penalised.

The bill would also extend unemployment compensation to people who are forced to leave their job to provide for their safety or their children’s safety. As mentioned above, homicide is the leading cause of death for women in the workplace. 15 percent of these deaths are due to domestic violence, 11 percent of all rapes occur at the workplace. These grim statistics do not begin to address the many women that are physically injured or otherwise harassed at work each day. Often, the only way to escape that kind of brutal stalking is for a victim to leave her job so she can relocate to a safer place. In circumstances in which a victim is forced to leave a job to ensure her own safety, her compensation should be available to her, so that she does not have to make the terrible choice of risking her safety to ensure her livelihood.

Further, VESSA would prohibit discrimination in employment against victims because of domestic and sexual assault. Victims should not be fired or passed over for promotions for reasons beyond their control. Maintaining a victim’s employment is critical to her ability to leave an abusive relationship.

The bill would also protect victims of domestic and sexual violence. The bill would extend unemployment compensation if the victim leaves a job because she’s fleeing abuse, she can’t receive unemployment compensation. That’s wrong, and our bill will protect those victims.

Our bill will also protect victims by allowing them unpaid time to get the help they need. Today, a woman can receive FMLA, to care for a sick or injured spouse. But a woman cannot use FMLA leave to go to court to stop abuse. Our bill will correct these fatal flaws.

Finally, our bill will protect victims of domestic violence from insurance discrimination. Insurance companies have classified domestic violence as a high risk behavior. That punishes women who are victims. Once again, women must sacrifice their economic safety net if they choose to come forward and seek help from violence. Title IV of VESSA would prohibit discrimination in all lines of insurance against victims of domestic violence, stalking and sexual assault.

I am proud of the guidance we’ve received from advocates in crafting this legislation. I want to thank them for their efforts and their commitment to breaking the cycle of violence. I want to particularly acknowledge the efforts of the advocates in Washington State who have provided input in drafting this legislation. Without the grassroots support for our communities, we couldn’t have passed VAWA in the first place. Their support and leadership will help us take this critical next step in passing VESSA.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1063. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 1064. Mr. GRAHAM proposed an amendment to amendment SA 1025 submitted by Mr. MURRAY and intended to be proposed to the bill (H.R. 2299) supra.

SA 1065. Mr. GRAMM (for himself, Mr. MCCAIN, and Mr. DOMENICI) proposed an amendment to amendment SA 1025 submitted by Mr. MURRAY and intended to be proposed to the bill (H.R. 2299) supra.

SA 1066. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1067. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1068. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1069. Mr. VINOVICh submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1070. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill H.R. 2299, supra; which was ordered to lie on the table.

SA 1071. Mr. FITZGERALD (for himself and Mr. INSHOFF) submitted an amendment intended to be proposed by him to the bill