best possible information to travelers, the military, and others, including news of sanitation, travel restrictions, and other precautions.

Again, I commend the actions USDA and other agencies to prevent the incidence of these diseases abroad from creating a crisis in the U.S. I think we all appreciate the sensitivity of this issue, and that no one gains from exaggerating or misrepresenting potential risks in a situation such as this. Neither would the U.S. benefit in the long run by limiting trade with other countries for reasons other than those that are purely health and safety-related, and can be scientifically substantiated.

At the same time, we have every right to protect the health of our domestic livestock industry in a pro-active and comprehensive manner. To that end, I look forward to passing this legislation quickly, so we can ensure that the Administration has the information and resources it needs to respond to this situation and to ensure that the public is fully aware of the steps being taken on their behalf.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—APRIL 6, 2001

By Mr. BOND (for himself and Mr. Breaux):
S. 724. A bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce a bill that I believe is vitally important to the health care of children and pregnant women in America. The goal of this legislation is simply more. We know more pregnant women and more children are covered by health insurance so they have access to the health care services they need to be healthy.

The need is great, on any given day, approximately 11 million children and close to half a million pregnant women do not have health insurance coverage. For many of these women and children, they or their family simply can’t afford insurance, and lack of insurance often means inability to pay for care. The further tragedy is that quite a few are actually eligible for a public program like Medicaid or the State Children’s Health Insurance Program, but many of those do not know they are eligible and are not signed up.

Lack of health insurance can lead to numerous health problems, both for children and for pregnant women. A child without health coverage is much less likely to receive the health care services that are needed to ensure the child is healthy, happy, and fully able to learn and grow. An uninsured pregnant woman is much less likely to get critical prenatal care that reduces the risk of health problems for both the woman and the child. Babies whose mothers receive no prenatal care or late prenatal care are at risk for many birth problems that include birth defects, premature births, and low birth-weight.

The bill I am introducing deals with this insurance problem in two ways.

First, it is born into pregnancy, and can be scientifically substantiated.

Through the joint federal-state SCHIP program, states are currently expanding the availability of health insurance for low-income children. However, federal law prevents states from using SCHIP funds to provide prenatal care to low-income pregnant women over age 19, even though babies born to women over age 19 are at risk for many birth problems, including birth defects, premature births, and low birth-weight.

The bill I am introducing deals with this insurance problem in two ways.

First, it is born into pregnancy, and can be scientifically substantiated. This provision will not impact federal SCHIP expenditures because it does not change the existing federal spending caps for SCHIP. Babies born to pregnant women covered by a state’s SCHIP program would be automatically enrolled and receive immediate coverage under SCHIP themselves.

It is foolish to deny prenatal care to a pregnant mother and then, only after the baby is born, provide the child with coverage under SCHIP. Prenatal care can be just as important to a newborn baby as postnatal care, and the prenatal care is of course important for the mother as well.

We need to make states will be interested. Two states have already gone through the difficult Health Care Financing Administration waiver process to get permission to cover pregnant women through their SCHIP programs. But you shouldn’t have to get a waiver to do something that makes so much sense. This bill will make it an automatic option that any state can do without the need of a waiver.

Second, the bill will help states reach out to women and children who are eligible for Medicaid or SCHIP. Approximately 340,000 pregnant women and several million children are estimated to be eligible for but not enrolled in Medicaid. Millions of additional children are eligible for but not yet enrolled in SCHIP. We must reach out to these people to make sure they know they have options which they are not using.

When Congress passed the welfare reform bill back in 1996, we created a $500 million fund that states could tap into to make sure that all Medicaid-eligible people stayed in Medicaid. The problem is that only half of that fund has been used. My bill would give states more flexibility to use this fund to reach out to both Medicaid and SCHIP-eligible women and children.

My bill tries to make greater use of what is known as presumptive eligibility. Under presumptive eligibility, states are allowed to temporarily enroll children whose family income appears to be below Medicaid or SCHIP income standards, until a final determination of eligibility is made. This is useful because it allows people to get health care services at the same time that they are waiting, sometimes for as much as a month or two, for a final eligibility determination.

Without presumptive eligibility, experience has shown that fewer people will fill out the applications forms, and fewer people will be willing to wait until a final decision is made. When it comes to trying to ensure that people get health care, we need to remove as many barriers as possible. That is why presumptive eligibility is useful, it removes a barrier.

Right now states may grant presumptive eligibility for both pregnant women in Medicaid and for children in Medicaid and in SCHIP. Because my legislation would allow pregnant women to be covered through SCHIP for the first time, my bill also extends presumptive eligibility for pregnant women into the SCHIP program. In addition, in legislation passed last December, Congress expanded the types of sites states can use to grant presumptive eligibility for children to also include schools and other entities that states think will be able to identify people eligible for these programs. However, we failed to give states the ability to use these additional entities as sites to enroll pregnant women. My bill would correct that omission.

The bottom line is that this bill will help provide health care to more pregnant women. With hundreds of thousands of pregnant women lacking in- surance, and with hundreds of thousands lacking adequate prenatal care, we are compelled to focus on this issue.

I believe this is crucial legislation, and urge my colleagues to join me in support of it so that we can pass this bill.

By Mr. GRASSLEY:
S. 725. A bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury, to issue regulations covering the practices of enrolled agents before the Internal Revenue Service; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I rise to introduce the Enrolled Agent Credentials Protection Act. This legislation would codify the standards that Enrolled Agents have the right to use their federally granted credentials, by making it clear that states shall not restrict enrolled agents from using the
words “Enrolled Agent” or the abbreviations “EA” and “E.A.”

A number of states have enacted laws that authorize Enrolled Agents to use their credentials or designations as Enrolled Agents. The Supreme Court has held in similar situations that because the Federal Government grants the license, restricting its use is an unmerited exercise of state powers. This legislation is consistent with the Uniform Accountancy Act, Third Edition, as drafted by the American Institute of Certified Public Accountants and National Association of State Accountancy Boards.

Enrolled Agents have been providing valuable services to taxpayers since 1884. Since that time, the profession has evolved and now includes preparing and advising on tax returns for individuals, partnerships, corporations, estates, trusts, and any entity with tax reporting requirements. They also provide affordable representation to individuals and small businesses with disputes before the Internal Revenue Service. At present, there are approximately 35,000 Enrolled Agents in the country providing practical and affordable tax service to taxpayers.

Enrolled Agents are highly qualified tax professionals. While certified public accountants and licensed attorneys also represent taxpayers before the Internal Revenue Service, only Enrolled Agents are required to demonstrate to the IRS their technical competence in the field of taxation. In order to maintain their status as Enrolled Agents, they must take 72 hours of continuing professional education, reported every three years to the IRS. Because Enrolled Agents focus on federal taxes and tax administration, they are able to keep on the forefront of current changes in the law and regulations.

The Enrolled Agent designation dates to the Enabling Act of 1884 and the profession is regulated by Treasury Circular 230, the same body of regulations that governs the practice of attorneys and certified public accountants before the Internal Revenue Service.

This bill would restate the statutory validation that Enrolled Agents hold and allow them the right to use their credentials as Enrolled Agents. In doing so, this bill does not add to the powers that Enrolled Agents currently maintain, nor would it affect the rules and regulations provided for in Treasury Circular 230.

Section 10.30 of Circular 230 authorizes Enrolled Agents to advertise and display their ability to practice before the IRS provided the designation is not misleading or deceptive to the public. Neither Congress nor the Treasury Department can or should interfere with the right of Enrolled Agents to inform taxpayers that they hold a license to practice before the Internal Revenue Service.

By Mr. BREAUX (for himself, Mr. THOMPSON, Mr. MILLER, Mr. CLELAND, Ms. LANDRIEU, Mr. SHELBY, Mr. BUNNING, and Mr. FRIST):

S. 726. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of prepayments for natural gas to the Committee on Finance.

Mr. BREAUX. Mr. President, I am introducing legislation today to address a problem that has prevented municipal gas systems from using their tax exempt borrowing authority to obtain an assured, long-term supply of competitively-priced natural gas. I am joined today by my colleagues, Senators THOMPSON, MILLER, CLELAND, LANDRIEU, SHELBY, BUNNING and FRIST.

There are approximately 1,000 publicly owned gas distribution systems in the United States. A majority of which are located in small towns and rural communities across my home state of Louisiana and across the country. In 1993, the Federal Energy Regulatory Commission, FERC, restricted the nature and extent that municipal gas systems could no longer purchase natural gas supplies on a reliable and regulated basis from interstate natural gas pipelines. This fundamental change in the marketplace meant that for the first time municipal gas systems had to acquire reliable gas supplies and transport on their own in a deregulated marketplace. In response, many formed joint action agencies—as contemplated in the FERC re-structuring, to acquire and manage the delivery of gas.

In today’s turbulent natural gas markets, long-term prepaid supply arrangements are the most reliable means of obtaining an assured supply of natural gas. Municipal supply contracts, a municipality or a joint action agency issues tax-exempt bonds. These contracts contain stiff penalties if the supplier fails to fulfill its contract—making this the most reliable gas supply that municipal gas agencies can purchase. The seller discounts the price for several reasons including the fact that a prepaid contract eliminates the normal credit risk associated with selling gas to non-rated governmental entities. Municipal gas systems are able to obtain gas supplies at more competitive prices. Until August of 1999, joint action agencies entered into prepaid supply contracts with gas suppliers to obtain a long-term, e.g., 10-year, supply of gas.

In August 1999, the IRS effectively prevented municipal gas systems from using their tax-exempt borrowing authority to fund the purchase of long-term, prepaid supplies of natural gas for their citizens. In a statement on an unrelated matter, the IRS questioned whether the purchase of a commodity, such as natural gas, under a prepaid contract financed by tax-exempt bonds has a principal purpose of earning an investment return. In this scenario, the bonds would run afoul of the arbitrage rules of the Internal Revenue Code.

Confusion over the IRS’ statement and fear of impending regulations has led to the effective elimination of an extremely effective method of securing natural gas for local communities. The IRS has yet to issue any clarification or guidance on this issue.

Under current law, tax-exempt bonds may not be used to raise proceeds that are then used to acquire “investment-type property” having a higher yield than the bonds. Governmental bonds that violate this arbitrage restriction do not qualify for tax-exempt status. Treasury regulations provide that investment-type property includes certain prepayments for property or services “if a principal purpose for pre-paying is to receive an investment return.” But, “a prepayment does not give rise to investment-type property if . . . the prepayment is made for a substantial business purpose”’ for entering into prepaid transactions and “no commercially reasonable alternative to the prepayment . . .” A nearly identical standard is used to determine whether a prepaid transaction is treated as a loan for purposes of the private loan-financing test. If a transaction is considered a private loan financing, the bonds are treated as private activity bonds. Although municipal gas systems clearly have a substantial business purpose for entering into prepaid transactions and “no commercially reasonable alternative,” the lack of clarification on this IRS language has hampered the most efficient means of obtaining an assured, long-term, reasonably-priced energy delivery system to continue unimpeded.

The United States is in the midst of an energy crisis. Natural gas distribution systems are scrambling to obtain an assured supply of natural gas, even while prices have skyrocketed in the last few months. The ability of small communities to use their tax-exempt borrowing authority to obtain a long-term, assured supply of competitively-priced natural gas is essential. By clarifying current law, we provide a low-cost natural gas option for millions of Americans across the country.

In unanimous consent, the text of the bill was printed in the Record.

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

S. 726
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
CONGRESSIONAL RECORD—SENATE
April 6, 2001

S. 727. A bill to provide grants for cardiopulmonary resuscitation (CPR) training in public schools; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

(a) In General.—Paragraph (2) of section 141(c) of the Internal Revenue Code of 1986 (relating to exception for tax assessment, etc., loans) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; or”, and by adding at the end the following new subparagraph:

“(C) arises from a transaction described in section 148(c)(4).”;

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

SEC. 3. PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) In General.—(4) Exception for Certain Prepayments to Ensure Natural Gas Supply.—The term "investment property" shall not include any prepayment for the purpose of obtaining a supply of natural gas reasonably expected to be used in a business of 1 or more utilities each of which is owned and operated by a State or local government, any political subdivision or instrumentality thereof, or any governmental unit acting for or on behalf of such a utility.”;

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

SEC. 4. INCLUSION OF AMENDMENTS TO SECTION 148 OF THE INTERNAL REVENUE CODE OF 1986—IN GENERAL.

(a) In General.—Subsection (b) of section 141(c) of the Internal Revenue Code of 1986 (relating to exception for tax assessment, etc., loans) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; or”, and by adding at the end the following new subparagraph:

“(C) arises from a transaction described in section 148(b)(4).”;

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 727. A bill to provide grants for cardiopulmonary resuscitation (CPR) training in public schools; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to be joining with my colleague from Wisconsin, Senator Russ Feingold, in introducing the Teaching Children to Save Lives Act which will help train a generation of potential lifesavers by providing funding for programs to teach children the basic lifesaving skill of cardiopulmonary resuscitation, or CPR.

Approximately 220,000 Americans die each year of sudden cardiac arrest. The American Heart Association estimates that about 50,000 of these lives could be saved each year if more people implemented the "Chain of Survival," which includes an immediate call to 911, early CPR and defibrillation, and early advanced life support. The Teaching Children to Save Lives Act will help strengthen the second link in the chain by providing grants to schools to implement CPR training programs and help some schools train their students in AED use.

In Wisconsin, we’ve seen many examples where a school age child or teenager is the first witness to a heart attack. Unfortunately, most kids would not know what to do in the face of such an emergency. As a matter of fact, many adults wouldn’t know what to do either. In response to this break in the chain of survival, a number of localities have pushed for increased CPR training and public access to defibrillation in schools.

In my home state of Wisconsin, a broad coalition including the Children’s Hospital of Wisconsin, the American Red Cross, the American Heart Association and the Children’s Hospital Foundation created Project Adam in memory of a student who tragically collapsed and passed away while playing competitive sports. This legislation follows the lead of Project Adam, which fosters awareness of the potential for sudden cardiac arrest in the adolescent population and facilitates training of high school staff and students in CPR and in the use of AEDs.

The Teaching Children to Save Lives Act builds on these efforts by providing funding to teach the basics of the chain of survival and provide funding for AED training devices. This legislation also has sufficient flexibility to allow States and communities the ability to address their local needs. For example, schools could either begin their efforts to teach the Chain of Survival by starting a CPR training program or build on existing efforts by applying for grants to train students to use automatic external defibrillators. As a result of Project Adam, at least one life has
been saved so far and three other children have survived episodes because of early defibrillation.

Many of our schools lack the resources they need for basic health educational programs. This legislation would follow the lead of local efforts such as Project Adam and demonstrate that the Federal government wants to be a partner in these lifesaving efforts.

I want to especially thank my friend from Maine, Senator Collins, who has worked with me to improve the chain of survival across the United States. Without her leadership last year on our legislation to improve access to defibrillators in rural areas, we would not have been able to move forward with legislation that will improve cardiac survival rates across rural communities.

I hope my colleagues will join us in our continued efforts to improve cardiac arrest rates by working with us to pass this important legislation to provide communities the support they need to effectively teach CPR in the schools.

By Mr. KOHL (for himself, Mr. DORGAN, and Mr. CONRAD):

S. 728. A bill to establish a demonstration project to waive certain nurse aide training requirements for specially trained individuals who perform certain specific tasks in nursing facilities participating in the Medicare or Medicaid programs, and to conditionally authorize the use of resident assistants in such nursing facilities; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Medicare and Medicaid Nursing Services Quality Improvement Act. I am pleased to work with Senator Baucus and Senator Cochran on this important effort to improve the quality of care in our nation's nursing homes.

This legislation serves two purposes. First, as part of an 8-State demonstration project, it allows Wisconsin nursing homes to continue utilizing Resident Assistants, or “single task employees” as they are referred to in Wisconsin, to help provide care to residents. Second, it provides for a thorough evaluation of Resident Assistants to assess their impact on quality of care, as well as their impact on the recruitment, retention, and salaries of other nursing staff.

For the past seven years, many nursing facilities in Wisconsin have been utilizing single task employees to help provide care to residents. Single task employees have helped primarily with feeding and hydration services and have provided often-needed extra assistance during the busier mealtime hours. All single task employees must go through a training program. In many cases, those who perform these single tasks are already on staff serving in other non-nursing capacities.

Last year, the Health Care Financing Administration, HCFA, notified the State of Wisconsin that the use of single task employees in nursing homes was not permissible under Federal law. In particular, HCFA noted that only staff who have undergone the required training to become a Certified Nursing Aide, CNA, can perform related tasks in Medicaid facilities. Therefore, faced with no other recourse, Wisconsin submitted and HCFA approved a plan to phase out the use of single task employees by the end of 2001.

I am deeply concerned that the immediate removal of all single task employees could worsen staffing shortages that many Wisconsin nursing homes already face. A December, 2000 survey of 247 Wisconsin nursing homes found that nearly 32 percent were currently suspending or restricting admissions or had done so in the prior six months due to inadequate staffing.

I recognize that there are many factors that have contributed to staffing shortages in Wisconsin and across the nation. I believe that we need to look for long-term solutions to strengthen training and improve staffing in nursing homes, and I am committed to working in that effort. We must all work together to find ways to attract greater numbers of qualified people to become CNAs, and ensure they receive the support, training and compensation they deserve for their hard work and dedication.

In the meantime, this legislation provides a short-term solution to address the staffing shortages Wisconsin nursing homes face today. Under the bill, Wisconsin would be one of 8 demonstration States and could continue to use single task workers, referred to in the legislation as “Resident Assistants” to account for differences in terminology between States. The information we obtain from these Demonstration States will help us evaluate the impact of Resident Assistants and provide us with valuable insight to improve the quality of nursing home care.

Because this is a Demonstration Project, this bill provides safeguards to closely monitor the use of Resident Assistants. Under the bill, Resident Assistants would be limited to providing assistance with feeding and hydration. All Resident Assistants would be required to go through a training program approved by the State. They must be trained in feeding and hydration skills, recognizing and alerting listeners to signs of malnutrition and dehydration, understanding the aging and disease processes of the elderly, responding to choking emergencies and alerting licensed staff to other emergencies, taking precautions to prevent the spread of disease, and residents’ rights. In addition, all Resident Assistants must be supervised at all times by a licensed health professional.

I also want to stress that this bill strictly prohibits nursing homes from replacing certified nursing staff with Resident Assistants, and Resident Assistants may not be counted toward any minimum staffing requirements that nursing homes are or could be required to meet. Let me be clear: Resident Assistants are not intended to serve as a substitute for the specialized care that nurse aides provide. They are intended to be utilized as supplemental help with feeding and hydration services for residents, to provide an extra pair of hands at busier mealtimes, and to provide some assistance to nurse aides who are stretched so thin so they can focus on other critical nursing tasks.

Most importantly, let me reiterate that this is a time-limited demonstration project. The advisory panel that we collect reliable data on the use of Resident Assistants, which will be analyzed by an advisory panel made up of nursing home representatives, Long-Term Ombudsmen, State and Federal officials, consumer groups, and labor representatives.

The advisory panel will look at a variety of factors to determine the impact of the project, including: the effect on quality of care compared to non-demonstration States, the effect on staffing levels and ratios in nursing homes, the effect on recruitment, retention, and salaries of nursing aides, and resident satisfaction with feeding and hydration services.

The advisory panel will evaluate this data and submit recommendations to the Secretary of the Department of Health and Human Services. The Secretary will then submit a final report to the Congress on the demonstration. If the Secretary finds the demonstration project resulted in diminished quality of feeding and hydration services, or if recruitment, retention, or salaries of nursing staff decreased as a direct result of the use of Resident Assistants, then the demonstration project would end and all nursing homes must cease using Resident Assistants. However, if the Secretary finds that the demonstration projects were successful, only then may the Secretary expand the use of Resident Assistants nationwide, but with the same safeguards as the demonstration project. They would be limited to feeding and hydration services, required to undergo comprehensive training and be supervised by licensed health professionals, and be subject to the same requirement that they may only augment, not replace nursing staff.

This legislation will not only help stave off an even greater staffing problem in Wisconsin today. It will also give us the opportunity to take a closer look at Resident Assistants so we can make an informed determination as to whether they can help improve the quality of care in our nation's
nursing homes. Our nursing homes in Wisconsin believe that Resident Assistants can fill the need, and this bill will allow us to keep an open mind and look at all of the evidence in a thorough evaluation.

This legislation helps address the challenges we face today. At the same time, let me reiterate that I am committed to working with my colleagues to look for longer-term solutions to address staffing shortages in order to ensure quality nursing home care far into the future.

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. 728
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Medicare and Medicaid Nursing Services Quality Improvement Act of 2003."

SEC. 2. DEMONSTRATION PROJECT TO WAIVE CERTAIN NURSE AIDE TRAINING REQUIREMENTS FOR SPECIALLY TRAINED INDIVIDUALS WHO PERFORM CERTAIN COVERED TASKS IN MEDICAID AND MEDICAID NURSING FACILITIES.

(a) DEMONSTRATION PROJECT.—Not later than October 1, 2001, the Secretary shall conduct a demonstration project under which a resident assistant may perform a covered task for a resident of a covered nursing facility in a demonstration State.

(b) REQUIREMENTS.—
(1) MINIMUM STAFFING REQUIREMENTS NOT AFFECTED.—A resident assistant performing a covered task under this section—
(A) may augment, but not replace, existing staff of a covered nursing facility; and
(B) shall not be counted toward meeting or complying with staffing requirements for nursing care staff and functions of such a facility, including any minimum nursing staffing requirement imposed under section 1819 or 1919 of the Social Security Act (42 U.S.C. 1395i–3, 1396l).

(2) EXCLUSION OF PARTICIPATION.—
(A) BASED ON REPLACEMENT OF CERTIFIED NURSE ASSISTANTS.—Each facility shall submit to the Secretary data collected pursuant to sections 1819 and 1919 of the Social Security Act (42 U.S.C. 1395i–3, 1396l) for purposes of excluding a facility under clause (i) unless the Secretary determines that the facility meets the requirements of paragraph (3).

(B) BASED ON POOR TREATMENT RECORDS OR INSUFFICIENT LICENSED STAFF.—The Secretary may exclude from participation in a demonstration project any covered facility that the Secretary determines (on the basis of data submitted under subsection (c) or otherwise) has replaced certified nurse assistants with resident assistants.

(ii) LIMITATION.—The Secretary may not exclude a facility under clause (i) unless the Secretary has reviewed all pertinent data that may reflect on a reduction of nursing staff in the facility, including changes in resident population and case mix.

(c) DATA COLLECTION.—
(A) IN GENERAL.—At the beginning of a covered nursing facility’s participation in the demonstration project, the facility shall submit to the Secretary—
(i) the number of residents in the facility; and
(ii) a demonstration project data collection form, including data on the number of new resident assistants hired solely to perform covered tasks and the number of such assistants performing additional tasks; and
(iii) the number of residents of the facility who are assisted by a certified nurse assistant.

(b) REQUIREMENTS.—
(1) DATA REGARDING PERFORMANCE OF RESIDENT ASSISTANTS.—Each facility shall submit to the Secretary data collected pursuant to sections 1819 and 1919 of the Social Security Act (42 U.S.C. 1395i–3, 1396l) for purposes of excluding a facility under clause (i) unless the Secretary determines that the facility meets the requirements of paragraph (3).

(2) TRANSMITTAL OF DATA TO THE SECRETARY.—The State agency shall forward data collected pursuant to this subsection to the Secretary. The Secretary shall compile data gathered under this section with data collected under sections 1819 and 1919 of the Social Security Act (42 U.S.C. 1395i–3, 1396l) for purposes of excluding a facility under clause (i) unless the Secretary determines that the facility meets the requirements of paragraph (3).

(c) ANNUAL REPORTS.—
(1) GENERAL.—Not later than December 1 of each of 2002 and 2003, the Secretary shall submit to Congress a report on the demonstration project, including—
(i) a summary of the data submitted by States to the Secretary under section 2(b)(2) of the Social Security Act (42 U.S.C. 1395i–3),

(2) DATA REGARDING PERFORMANCE OF RESIDENT ASSISTANTS.—The Secretary shall submit to Congress a report on the performance of resident assistants in demonstration States, and

(d) REPORTS TO CONGRESS.—
(1) ANNUAL REPORTS.—Not later than December 1 of each of 2002 and 2003, the Secretary shall submit to Congress a report on the demonstration project, including—
(i) a summary of the data submitted by States to the Secretary under section 1819 of the Social Security Act (42 U.S.C. 1395i–3), and

(ii) the number of resident assistants in the demonstration project, program, or policy to permit individuals who do not meet nurse aide training requirements to perform a covered task.

(2) COVERED NURSING FACILITY.—The term "covered nursing facility" means—
(A) a skilled nursing facility (as that term is defined in section 1861(a) of the Social Security Act (42 U.S.C. 1395b(i))), and
(B) an intermediate care facility (as that term is defined in section 1861(a) of the Social Security Act (42 U.S.C. 1395b(i))).

(3) RESIDENT ASSISTANT.—In general.—The term "resident assistant" means an individual who does not meet nurse aide training requirements (as defined in paragraph (5)) but who does meet the requirements specified in subparagraph (B).

(4) RESIDENT ASSISTANT REQUIREMENTS.—For purposes of subparagraph (A), the requirements specified in this subparagraph are the following:

(A) The individual has successfully completed an initial training program administered by the facility that meets the requirements of subparagraph (C) and subsequent competency evaluations, as reviewed and approved by the demonstration State (which, with respect to the training program, may be during the facility’s standard survey).

(B) The individual is performing a covered task under the onsite supervision (as defined in paragraph (6)) of a licensed professional (as defined in section 1861(b)(5)(G) of the Social Security Act (42 U.S.C. 1395b(i))).

(C) The individual is performing a covered task while under the onsite supervision (as defined in paragraph (6)) of a licensed professional (as defined in section 1861(b)(5)(G) of the Social Security Act (42 U.S.C. 1395b(i))).
and the comprehensive assessment of the resident’s functional capacity required under section 1819(b) or 1919(b) of the Social Security Act (42 U.S.C. 1395i–3, 1396r). iv. The Individual complies with any other limitations on performance of duties which may be established by the demonstration State.

(C) TRAINING PROGRAM REQUIREMENTS.—For purposes of subparagraph (B)(i), a training program shall—

(i) relate to the performance of the covered task to be performed by the individual; and
(ii) include—

(I) feeding skills and assistance with eating;

(ii) the importance of good nutrition and hydration, including familiarity with signs of malnutrition and dehydration;

(iii) an overview of the aging and disease process, as it relates to nutrition and hydration, including familiarity with signs of malnutrition and dehydration;

(iv) how to respond to a choking emergency and alert licensed staff to other health emergencies.

(V) universal precautions for the prevention of the spread of communicable diseases; and

(VI) a statement of residents’ rights.

(4) COVERED TASK.—

(A) IN GENERAL.—The term “covered task” means feeding and hydration.

(B) EXCLUSIONS.—Such term does not include—

(i) administering medication,

(ii) providing direct medical care, including taking vital signs, skin care, or wound care, or

(iii) performing range of motion or other therapeutic exercises with residents.

(5) NURSE AIDE TRAINING REQUIREMENTS.—

The term “nurse aide training requirements” means the requirements of sections 1819(b)(5)(F) and 1919(b)(5)(F) of the Social Security Act (42 U.S.C. 1395i–3(b)(5)(F) and 1396r(b)(5)(F) relating to nurse aides.

(6) ONSITE SUPERVISION.—The term “onsite supervision” means that a licensed health professional referred to in paragraph (3)(B)(i) is in the unit or floor where services are being provided, and is readily available to provide assistance if necessary.

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

(D) REQUIREMENT FOR DETERMINATION OF APPROPRIATE PATIENTS.—A resident assistant may only perform a covered task for a resident who is approved for such purpose based on the needs of, and potential risks to, the resident, as observed and documented in the resident’s written plan of care and the comprehensive assessment of the resident’s functional capacity required under this subsection.

(E) ADDITIONAL REQUIREMENTS.—The individual complies with any other limitations on performance of duties which may be established by the State in which the covered task is performed.

(F) MINIMUM STAFFING REQUIREMENTS NOT AFFECTED.—A resident assistant shall not be counted toward meeting or complying with any requirement for nursing care staff and functions of such facilities under this section, including any minimum nursing staffing requirement.

(G) COVERED TASK DEFINED.—For purposes of this section, the term ‘covered task means feeding and hydration.”

(8) REQUIREMENTS FOR RESIDENT ASSISTANTS IN NURSING FACILITIES RECEIVING PAYMENTS UNDER THE MEDICAID OR MEDICAID PROGRAM.—

(a) IN GENERAL.—Subsection (b) of sections 1819(b)(5)(F) and 1919(b)(5)(F) of the Social Security Act, as amended by section 941 of the Deficit Reduction Act of 1984, as a result of any requirement for the approval of resident assistant training programs and competency evaluations administered by the facility, including—

(i) requirements described in subparagraph (B);

(ii) minimum hours of initial and ongoing training and retraining;

(iii) qualifications of instructors,

(iv) procedures for determination of competency,

(v) the minimum frequency and methodology to be used by a State in reviewing compliance with the requirements for such programs and competency evaluations.

(b) REQUIREMENTS DESCRIBED.—For purposes of subparagraph (A), the requirements described in this subparagraph are the following:

(i) Feeding skills and assistance with eating.

(ii) The importance of good nutrition and hydration, including familiarity with signs of malnutrition and dehydration.

(iii) An overview of the aging and disease process, as it relates to nutrition and hydration services.

(iv) How to respond to a choking emergency and alert licensed staff to other health emergencies.

(v) Universal precautions for the prevention of the spread of communicable diseases.

(E) Additional Requirements.—

(i) Residents’ rights.

(ii) Special Rule for State Demonstration Participants.—In the case of a State that was a demonstration State (as that term is defined in subsection (f)(1) of section 2 of the Medicare and Medicaid Nursing Services Quality Improvement Act of 2001), the effect on resident care in authorizing the use of resident assistants to furnish feeding and hydration services to residents in skilled nursing facilities under the medicaid program in the demonstration States.

(iii) Contingent Effective Date.—(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2) (A) Not later than December 1, 2004, the Secretary of Health and Human Services, in consultation with the States, shall submit to Congress a report on the results of the demonstration project established under section 1819(b)(9) and that meet the requirements established under this paragraph, notwithstanding subsection (b)(9)(B)(i) resident assistants who performed the covered task in facilities in that State under that demonstration project—

(i) do not have to complete the entire training program and competency evaluation required under that subsection; and

(ii) shall only be required to meet those requirements for such approval that the Secretary establishes under this paragraph.

(b) Contingent Effective Date.—If at all, the amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

By Mr. DeWINE:

S. 733. A bill to eliminate the duplicative intent requirement for carjacking; to the Committee on the Judiciary.

Mr. DeWINE. 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. 735

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

SECTION 1. EXPANSION OF ELIGIBILITY FOR AWARD OF CERTAIN CONSTRUCTION CONTRACTS.

(a) In General.—Section 11(b)(4)(A) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 302(b)(4)(A)) is amended by inserting "or at a United States diplomatic or consular establishment abroad after "United States";

(b) Conforming Amendment.—Section 402(c)(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4582(c)(2)(D)) is amended by inserting "or at a United States diplomatic or consular establishment abroad after "United States".

By Mr. Dewine:

S. 735. A bill to amend title 18 of the United States Code to add a general provision for criminal attempt; to the Committee on the Judiciary.

Mr. Dewine. 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. 735

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 "General Attempt Provision Act".

SEC. 2. ESTABLISHMENT OF GENERAL ATTEMPT OFFENSE

Chapter 19 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking "Conspiracy" and inserting "Inchoate offenses"; and

(2) by adding at the end the following:

"8374. Attempt to commit offense"

(a) In General.—Whenever, acting with the intent to carry out in mind or effect the commission of an offense described in this title, intentionally engages in conduct that, in fact, constitutes a substantial step toward the commission of the offense, is guilty of an attempt and is subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt, except that the penalty of death shall not be imposed.

(b) Inability to Commit Offense; Completion of Offense.—It is not a defense to a prosecution under this section—

(1) that it was factually impossible for the actor to commit the offense, if the offense could have been committed had the circumstances been as the actor believed them to be; or

(2) that the offense attempted was completed.

(c) Exceptions.—This section does not apply—

(1) to an offense consisting of conspiracy, attempt, endeavor, or solicitation;

(2) to an offense consisting of an omission, refusal, failure of refraining to act;

(3) to an offense involving negligent conduct;

(4) to an offense described in section 1118, 1120, 1121, or 1153 of this title.

(d) Affirmative Defense.—In General.—It is an affirmative defense to a prosecution under this section, on which the defendant bears the burden of persuasion, that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant prevented the commission of the offense.

(2) Definition.—For purposes of this subsection, a renunciation is not 'voluntary and complete' if it is motivated in whole or in part by circumstances that increase the probability of detection or apprehension or that make it more difficult to accomplish the offense, or by a decision to postpone the offense until a more advantageous time or to transfer the criminal effort to a similar object or victim.

(b) Technical and Conforming Amendment.—The analysis for chapter 19 of title 18, United States Code, is amended by adding at the end the following:

"374. Attempt to commit offense.".

SEC. 3. RATIONALIZATION OF CONSPIRACY PENALTY AND CREATION OF RENUNCIATION DEFENSE

Section 371 of title 18, United States Code, is amended.
April 6, 2001

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5919

Mr. SMITH of New Hampshire.

A bill to amend the Voting Rights Act of 1965 to protect the voting rights of members of the Armed Forces; to the Committee on Rules and Administration.

Mr. SMITH of New Hampshire. Mr. President, I rise today to offer the Armed Forces Voting Rights Act of 2001. There is a problem with federal law that allowed members of the armed forces to be disenfranchised in Florida, one of the most recent presidential election. My bill would stop the discrimination.

Over time, federal law has recognized more and more rights for our military personnel that serve overseas. Several federal laws have been enacted since 1942 to enable those in the military and U.S. citizens who live abroad to vote in federal elections. The Soldier Voting Act of 1942 was the first attempt to guarantee federal voting rights for members of the armed forces and that law only applied during wartime. Members of the armed forces were provided the use of a postage free, federal post card application to request an absentee ballot. This law expired once World War II ended and the law never actually was in effect.

In 1955, Congress passed the Federal Voting Assistance Act which recommended, but did not guarantee, absentee registration for members of the military, federal employees who lived outside the U.S. and members of civilian service organization affiliated with the armed forces.

Federal law was again amended in 1968 to include a more general provision for U.S. citizens temporarily residing outside the U.S. Seven years later, the Overseas Citizens Voting Rights Act of 1975 guaranteed absentee registration and voting rights for citizens outside the U.S., whether or not they maintained a U.S. residence.

In 1986, President Reagan signed the Uniformed and Overseas Citizens Voting Act which required States to permit absent uniformed services voters, the spouses and dependents, and overseas voters who no longer maintain a residence in the U.S. to register absentee and vote by absentee ballot in all elections for federal office.

Federal law failed our military men and women in the last election, because many of these military voters were disenfranchised by canvassing boards throughout the State of Florida. My bill fixes federal law to prevent...
discrimination against military voters stationed overseas.

It was disturbing to our military men and women the events in Florida last fall. 1,500 overseas ballots were thrown out by Florida election officials initially—1,500 ballots were challenged—that is disturbing.

Bray said members of our armed forces spoke out in favor of having their vote counted. In Tallahassee, FL, in November of 2000, Robert Ingram, who was awarded a medal for heroism as a Navy corpsman serving with the Marines in Vietnam, said about Florida elections boards, “They need to count the votes for service people abroad.” It truly is an outrage that the state of Florida allowed military ballots to be disqualified.

Morale is traditionally low for our servicemen and women stationed overseas during the Christmas season. Gary Littrell a Medal of Honor winner said, “Can you imagine how low their moral will go if all of them feel that didn’t count?” According to the Miami Herald of November 26, 2000, “Many canvassing boards have said, however they followed state law to the letter in disqualifying overseas ballots with no signature, no witness, incorrect address, no postmark or date and a variety of other problems.”

Note that the Miami Herald does not cite actual fraud to disqualify 1,500 votes, mere technicalities in state law. My bill will fix this problem and not allow a ballot to be disqualified without “evidence of fraud.”

There were allegations that the Democrat party had a coordinated effort to disenfranchise our military voters. Former Montana Governor Mark Racicot said last fall, “In an effort to win at any cost, the vice president’s lawyers launched a statewide effort to throw out as many military ballots as they can.” 40 percent of the 3,500 overseas ballots in Florida were thrown out in November 2000 for technical reasons—that is 40 percent too much.

According to the Miami Herald, 39 felons illegally cast absentee ballots in Broward and Miami Dade counties during the election, yet 1,500 military men and women had their votes challenged. These felons convictions ranged from murder to rape and drunk driving. What crime did our military personnel commit? Is it a crime for the members of the military who chose to vote Republican? Is it a crime to volunteer to serve in the military? I guess every vote must count except for our military veterans.

Military ballots in Florida were disqualified for two reasons—the requirement that ballots must be postmarked by election day and failure to either have a proper signature or date on the actual ballot. Neither of these issues are currently addressed in the federal law. Federal law leaves such details to the state, such as postmark requirements and authentication of ballots.

I have a bill to amend the Voting Rights Act of 1965 to include members of the armed forces who were targeted as result of their propensity to vote for Republicans.

My bill establishes voting rights for members of the armed forces to insure that every military vote is counted. My bill makes it a violation of the Voting Rights Act of 1965 for any person “to disqualify, refuse to count, or otherwise negate the absentee or overseas vote of a member of the Armed Forces of the United States.”

A person could not disqualify a ballot because of “circumstances beyond the control of the serviceman,” this definition includes a post mark that may not be present on a military person’s ballot. The military frequently mail without postage and there is no necessity for a post mark on military mail; therefore there is no evidence on the face of an envelope to prove when a letter, or ballot in this case, is mailed.

My bill further forbids the disqualification of any ballot without “clear and convincing evidence of fraud in the preparation and mailing of the ballot by the voter” deadlines for returning ballots vary by state.

If you violate or conspire to violate the Armed Forces Voting Rights Act of 2001, then you are treated similarly to an individual who violates the Voting Rights Act of 1965—you are subject to fines and other criminal penalties. My bill also empowers the Attorney General to make rules consistent with this legislation.

I ask that voting rights be restored to our military voters—it is the least that we can do for those who put their lives on the line so we may live free, to allow our military men and women to have every vote counted.

By Mr. WELLSTONE (for himself, Mrs. MURRAY, Mr. DAYTON, Ms. STABENOW, Mr. DOGAR, Mr. KENNEDY, Mr. DURBIN, Ms. LANDRIEU, Mr. DASCHEL, Mr. REID, and Mr. JOHNSON):

S. 739. A bill to amend title 38, United States Code, to improve programs for homeless veterans, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. WELLSTONE. Mr. President, I rise today to introduce the “Heather French Henry Homeless Veterans Assistance Act.” It is a companion bill to H.R. 936, introduced in the House of Representatives by Representative EVANS. I am pleased to have the support of the following original cosponsors: Senators MURRAY, DAYTON, STABENOW, DOGAR, KENNEDY, DURBIN, LANDRIEU, DASCHEL, REID, and JOHN-SON.

The legislation is named to recognize and honor the outstanding contributors of Heather French Henry, Miss America 2000. She has helped lead the struggle to end homelessness affecting more than 300,000 of our nation’s veterans. For more than a year, she has given her time, talents and energy to show those who have served our country from homelessness. She has traveled from coast-to-coast with the message that we as a nation are duty-bound to assist homeless veterans again to become productive and contributing members of society.

I recently met Ms. French Henry. I appreciate her work, as well as her support for this bill. She has called it, “a comprehensive package of proposals that will lead to ending homelessness among our nation’s veterans so that they can once again be proud citizens.”

The bill establishes a national goal of ending homelessness among veterans within a decade. We can and must meet this goal, but achieving it will not be easy. According to the “Independent Budget” for Fiscal Year 2002, more than 275,000 veterans are homeless on any given night. The Independent Budget is a highly regarded analysis issued by four respected veterans organizations, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars. The Independent Budget also found that, “one out of three homeless males . . . sleeping in a doorway, alley or box in our cities and rural communities has put on a uniform and served our nation.” Finally, it stressed that two-thirds of homeless veterans served our nation for at least three years. The vast majority of homeless veterans have fully honored their oath to defend and protect the United States. Unfortunately, we haven’t fully honored our obligation to rescue them from the degradation and privations of life on the streets.

The causes of homelessness are complex. But the primary reason so many veterans are homeless is simple. We have not done enough. Since 1987, the VA has run some worthwhile and effective programs for homeless veterans, but they are too few, and they are too poorly funded. In FY 2000, the VA spent about $150 million for homeless programs, just $1.31 per homeless veteran per day. According to the Independent Budget, federal funding for homeless veterans serves just one in 10 of those in need.

The VA has reported that there were about 345,000 homeless veterans during 1999. That is 34 percent higher than in 1998, a national scandal during a time of prosperity. If we fail to pass this bill, imagine how many more homeless veterans will be sleeping in doorways, in boxes and on grates in the cold? Who will care for these veterans if we have a prolonged economic downturn?

I call on Americans to do more to free those who have served our country from homelessness. It gives them a hand-up, a hand-up they need to help restore dignity and self-
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SEC. 2. FINDINGS; DEFINITIONS.

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

SEC. 4. ADVISORY COMMITTEE ON HOMELESS VETERANS.

SEC. 5. ANNUAL MEETING REQUIREMENT FOR INTERAGENCY COUNCIL ON THE HOMELESS.

SEC. 6. EVALUATION OF HOMELESS PROGRAMS.

SEC. 7. CHANGES IN VETERANS EQUITABLE RESOURCE ALLOCATION.

SEC. 8. PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.

SEC. 9. GRANT PROGRAM FOR HOMELESS VETERANS.

SEC. 10. COORDINATION OF OUTREACH SERVICES FOR VETERANS AT RISK OF HOMELESSNESS.

SEC. 11. TREATMENT TRIALS IN INTEGRATED MENTAL HEALTH SERVICES DELIVERY.

SEC. 12. DENTAL CARE.

SEC. 13. PROGRAMMATIC EXPANSIONS.

SEC. 14. VARIOUS AUTHORITIES.

SEC. 15. LIFE SAFETY CODE FOR GRANT AND PER DIEM PROVIDERS.

SEC. 16. TRANSITIONAL ASSISTANCE GRANTS PILOT PROGRAM.

SEC. 17. ASSISTANCE FOR GRANT APPLICATIONS.

SEC. 18. HOME LOAN PROGRAM FOR MANUFACTURED HOUSING.

SEC. 19. EXTENSION OF HOMELESS VETERANS RE-INTEGRATION PROGRAM.

SEC. 20. USE OF REAL PROPERTY.

SEC. 2. FINDINGS; DEFINITIONS.

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

(1) On the field of battle, the members of the Armed Forces who defend the Nation are borne upon the shoulders of veterans and, likewise, the Nation is honor-bound to leave no veteran behind.

(2) The Department of Veterans Affairs report known as the Community Homeless Assessment, Local Education, and Networking Groups for Veterans (CHALENG) assessment, issued in May 2000, reports that during 1999 there were an estimated 344,963 homeless veterans, an increase of 34 percent above the 1998 estimate of 256,872 homeless veterans.

(3) Male veterans are more likely to be homeless than their nonveteran peers. Although veterans constitute only 13 percent of the general male population, 23 percent of the homeless male population are veterans.

(4) Homelessness among veterans is persistent despite unprecedented economic growth and job creation and general prosperity.

(5) While there are many effective programs that assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other initiatives that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans.

(6) If current programs to assist homeless veterans are fully maintained but not expanded, veterans will experience as many as
a billion nights of homelessness during the next decade.

(7) The CHALLENGE assessment referred to in paragraph (2) reports—

(A) that Department of Veterans Affairs and congressionally authorized organizations, and private and public sector entities, in-
governments, quasi-governmental organiza-
agencies of Federal, State, and local

(8) As of February 28, 2001, the Congress-
ional Budget Office forecasts a Federal
budget surplus of $313,000,000,000 for fiscal
year 2002 and budget surpluses totaling more
than $6,610,000,000,000 over the next 10 years.

(9) At least $575,000,000 will be required to
establish the 45,724 additional new beds now
needed by homeless veterans, according to an
informal Department of Veterans Affairs cost
estimation.

(10) Even if the Department of Veterans Af-
fairs and its partners created 2,000 additional
beds per year for encounters all roughly quadrupling the number of such beds they currently plan to open annually, it would still take more than two decades to provide the needed beds to meet the

(11) Nearly four decades ago, the Nation es-

(12) To expedite the development of perma-
nent housing alternatives for lower income
populations,

(13) Experts in vocational rehabilitation.

(14) Such other organizations or groups as
the Secretary considers appropriate.

(15) The Committee shall include, as ex
officio members—

(16) (A) the Secretary of Labor (or a rep-

(iii) a public or private place not designed
for, or ordinarily used as, a regular sleeping
accommodation for human beings.

(ii) The Secretary shall, on a regular
basis, consult with and seek the advice of the
Department of labor force, and (2) the Com-
munity-based providers of services to

(j) identify gaps in existing information
systems on homeless veterans, both within
and outside the Department, and provide rec-

(k) identify appropriate means of providing assistance to
homeless veterans.

(l) review the continuum of services pro-
vided by the Department directly or by con-
tract in order to define cross-cutting issues
and to improve coordination of all services
in the Department that address the special
needs of homeless veterans;

(m) identify gaps in existing information
systems on homeless veterans, both within
and outside the Department, and provide rec-

(n) identify missed opportunities resulting in less than
optimal outreach and engagement with homeless
veterans, including veterans with disabilities;

(o) identify barriers under existing laws
and policies to effective coordination by the
Department with other Federal agencies and
with State and local agencies addressing
community-based organizations; and

(p) identify opportunities for enhanced li-
aison by the Department with nongovern-

mental organizations and individual groups
addressing homelessness.

(F) with appropriate officials of the De-
partment designated by the Secretary, par-
ticipate with the Interagency Council on the
Homeless under title II of the McKinney-Vento
Homeless Assistance Act (42 U.S.C. 11311 et seq.); 

(G) recommend appropriate funding levels for institutional programs for homeless veter-
ens provided or funded by the Department; 

(H) recommend appropriate placement op-
tions for veterans who, because of advanced
disease, or severe mental illness, may
not be appropriate candidates for vocational
rehabilitation or independent living; and

(1) perform such other functions as the
Secretary may direct.

(c)(1) Not later than March 31 of each
year, the Committee shall submit to the Sec-
retary a report on the programs and activi-
ties of the Department that relate to home-
less veterans. Each such report shall in-
clude—

(A) an assessment of the needs of home-
less veterans; 

(B) a review of the programs and activi-
ties of the Department designed to meet
such needs;

(C) a review of the activities of the Com-
mittee; and

(D) such recommendations (including rec-
ommendations for administrative and legis-
lative action) as the Committee considers appro-
priate.

(2) Not later than 90 days after the receipt of
a report under paragraph (1), the Sec-
retary shall transmit to the Committees on
Veterans' Affairs of the Senate and House of
Representatives a copy of the report, to-
gether with any comments and recommenda-
tions concerning the report that the Sec-
tary considers appropriate.

(3) The Committee may also submit to the
Secretary such other reports and rec-
ommendations as the Committee considers appro-
priate.

(4) The Secretary shall submit with each
annual report submitted to Congress pursuant
to section 529 of this title a summary of all
reports and recommendations of the Com-
mittee submitted to the Secretary since the
previous annual report submitted by the Sec-
retary pursuant to that section.

(5)(D) Except as provided in paragraph (2),
the provisions of the Federal Advisory Com-
mittee Act (5 U.S.C. App.) shall apply to the
activities of the Committee under this sec-
tion.

(6) Section 14 of such Act shall not apply to
the Committee.

(b) CLERICAL AMENDMENT.—The table of
sections at the beginning of such chapter is
amended by adding at the end the following
new item:

“§546. Advisory Committee on Homeless Vet-
ers.”.

SEC. 5. MEETINGS OF INTERAGENCY COUNCIL ON
THE HOMELESS POPULATIONS.

Section 202(c) of the McKinney-Vento
Homeless Assistance Act (42 U.S.C. 11311(c)) is amended to read as follows:

“§546. Advisory Committee on Homeless Vet-
ers.—

(a) In General.—Chapter 5 of title 38, United

(b) Amendments.—The Committee shall meet at
the call of its Chairperson or a majority of
its members, but not less often than annu-
ally.

(c) Evaluation of Homeless Programs.

(a) Evaluation Centers.—The Secretary of
Veterans Affairs shall support the con-
tinuation within the Department of Veterans
Affairs of at least one center for evaluation
to improve the structure, process, and out-
come of programs of the Department of Vet-

ers Affairs that address homeless veterans.
SEC. 7. CHANGES IN VETERANS EQUITABLE RESOURCE ALLOCATION METHODOLOGY.

(a) ALLOCATION CATEGORIES.—The Secretary of Veterans Affairs shall assign veterans receiving the following services to the resource allocation category designated as ‘‘complex care’’ within the Veterans Equitable Resource Allocation System:

(1) Care provided to veterans enrolled in the Department of Veterans Affairs program for Mental Health Intensive Community Case Management.

(2) Continuous care in homeless chronically mentally ill veterans programs.

(3) Continuous care within specialized programs for veterans who have been diagnosed with both serious chronic mental illness and substance use disorders.

(4) Continuous therapy combined with sheltered housing provided to veterans in specialized treatment for substance use disorders.

(5) Specialized therapies provided to veterans with post-traumatic stress disorders (PTSD), including therapies provided by or under the following:

(A) Specialized outpatient PTSD programs.

(B) PTSD clinical teams.

(C) Women veterans stress disorder treatment teams.

(D) Substance abuse disorder PTSD teams.

(b) TREATMENT OF FUNDS FOR NEW PROGRAMS FOR HOMELESS VETERANS.—The Secretary shall ensure that funds for any new program for homeless veterans carried out through the Department of Veterans Affairs are designated for the first three years of operation of that program as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation System.

SEC. 8. PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS

(a) INCREASE IN RATE OF PER DIEM PAYMENTS.—Section 4(a) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking ‘‘eligible to veterans’’ and inserting the following: ‘‘eligible to homeless veterans’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 9. GRANT PROGRAM FOR HOMELESS VETERANS

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall carry out a program to make grants to health care facilities of the Department of Veterans Affairs and to grant and per diem providers in order to encourage development by those facilities and providers of programs targeted at meeting special needs within the population of homeless veterans.

(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who—

(1) are women;

(2) are 50 years of age or older;

(3) are substance abusers;

(4) are persons with post-traumatic stress disorder;

(5) are terminally ill;

(6) are chronically mentally ill; or

(7) have care of minor dependents or other family members.

(c) STUDY OF OUTCOME EFFECTIVENESS.—The Secretary shall conduct a study of the effectiveness of the grant program in meeting the needs of eligible veterans. As part of the study, the Secretary shall compare the results of programs carried out in the grant program under this section in terms of veterans’ satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity with results for similar veterans in programs of the Department or of grant and per diem providers that are designed to meet the general needs of homeless veterans.

(d) FUNDING.—From amounts appropriated to the Department of Veterans Affairs for ‘‘Medical Care’’ for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for purposes of the program under this section.

SEC. 10. COORDINATION OF OUTREACH SERVICES FOR VETERANS AT RISK OF HOMELESSNESS

(a) OUTREACH PLAN.—The Secretary of Veterans Affairs, acting through the Under Secretary for Health, shall provide appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to initiate a coordinated plan for joint outreach to veterans at risk of homelessness, including particularly veterans who are being discharged from institutions (including discharges from inpatient psychiatric care, substance abuse treatment programs, and penal institutions).

(b) MATTERS TO BE INCLUDED.—The plan under subsection (a) shall include the following:

(1) Strategies to identify and collaborate with external entities used by veterans who have not traditionally used Department of Veterans Affairs services to further outreach efforts.

(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are available to veterans.

(3) Appropriate programs or referrals to family support programs.

(4) Means to increase access to case management services.

(5) Plans for making additional employment services accessible to veterans.

(6) Appropriate referral sources for mental health and substance abuse services.

(c) COOPERATIVE RELATIONSHIPS.—The plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department of Veterans Affairs to facilitate making services and resources optimally available to veterans.

(d) REVIEW OF PLAN.—The Secretary shall submit the plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

SEC. 11. TREATMENT TRIALS IN INTEGRATED MENTAL HEALTH SERVICES DELIVERY

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall carry out two treatment trials in integrated mental health services delivery. Each such trial shall be carried out at a Department of Veterans Affairs medical center selected by the Secretary for such purpose. The trials shall each be carried out over the same one-year period.

(b) DEFINITION.—For purposes of this section, the term ‘‘integrated mental health services delivery’’ means a coordinated and standardized approach to evaluation between mental health and primary health care providers for enrollees or former enrollees, and follow-up of patients who have both mental health disorders (including substance use disorders and medical conditions).

(c) STRATEGY SELECTION.—In reviewing applications from Department medical centers for selection as a site for a treatment trial under this section, the Secretary shall consider models that—

(1) Standardized criteria for admission and enrollment as participant or control.
(2) Focus on prevention and symptom reduction.

(a) General. — For purposes of section 1712(a)(1)(H) of title 38, United States Code, outpatient dental services and treatment of a dental condition or disability of a veteran described in paragraph (1) of this subparagraph (a) and (b) shall be considered to be medically necessary if—

(1) the dental services and treatment are necessary for the veteran to successfully gain or retain employment;

(2) the dental services and treatment are necessary to alleviate pain; or

(3) the dental services and treatment are necessary to treat a disease or condition that is severe or complicated gingival and periodontal pathology.

(b) Eligible Veterans. — Subsection (a) applies—

(1) enrolled for care under section 1705(a) of title 38, United States Code; and

(2) receiving care (directly or by contract) in any of the following settings:

(A) domiciliary under section 1710 of such title.

(B) A therapeutic residence under section 1773(b) of title 38.

(C) Community residential care coordinated by the Secretary of Veterans Affairs under section 1730 of such title.

(D) A setting for which the Secretary provides funds under this Act and per diem provider.

(E) Any program described in section 7 of this Act.

SEC. 13. PROGRAMMATIC EXPANSIONS.

(a) Access to Mental Health Services. — The Secretary of Veterans Affairs shall develop standards to ensure that mental health services are available to veterans who require services by ensuring that each primary care health care facility of the Department has a mental health treatment capacity.

(b) Transitional Housing. — Effective October 1, 2002, the Secretary of Veterans Affairs Comprehensive Services Program Act of 1992 (38 U.S.C. 7721 note) is amended to read as follows:

"SEC. 12. FUNDING.

"(a) Amounts for Grant and Per Diem Programs. — From amounts appropriated for ‘Medical Care’ for any fiscal year, the Secretary shall expend not less than $55,000,000 (as adjusted from time to time under section (b)) to carry out the transitional housing grant and per diem provider programs under sections 3 and 4 of this Act.

"(b) Periodic Increases. — The amount in effect under subsection (a) shall be increased for any fiscal year by the overall percentage increase in the Medical Care account for that fiscal year from the preceding fiscal year."

(c) Comprehensive Homeless Services Program. — (1) The Secretary shall provide for the establishment of centers for the provision of comprehensive services to homeless veterans under section 1773(b) of title 38, United States Code, in at least each of the 29 largest metropolitan areas.

(2) Section 1773(b) of title 38, United States Code, is amended by striking ‘‘not fewer than eight’’.

(d) Opioid Substitution Therapy. — The Secretary shall ensure that opioid substitution therapy is available at each Department of Veterans Affairs medical center.

SEC. 14. VARIOUS AUTHORITIES.

(a) Employment Programs. — The Secretary of Veterans Affairs may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program.

(b) Supported Housing for Veterans Participating in Compensated Work Therapies. — The Secretary may authorize homeless veterans in the compensated work therapy program to receive care through the therapeutic residence program under section 1772 of title 38, United States Code, or through grant and per diem providers.

(c) Staffing Requirement. — The Secretary shall ensure that there is assigned at each Veterans Benefits Administration regional office at least one employee assigned specifically to ensure that homeless veterans programs in that region, including the housing program for veterans supported by the Department of Housing and Urban Development, housing programs supported by the Department of Labor and any pilot program for the homeless veterans reintegration program of the Department of Labor, the assessments required by section 1774 of title 38, United States Code, Comprehensive Homeless Centers, and such other duties relating to homeless veterans as may be assigned. In any such pilot office with at least 10 employees, there shall be at least one full-time employee assigned to such functions.

(d) Coordination of Employment Services. — (1) Section 4102(a)(3) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(11) Coordination of services provided to veterans with training assistance provided to veterans by entities receiving financial assistance under section 738 of the McKinney–Vento Homeless Assistance Act (42 U.S.C. 11442(a))."

(2) Section 4104(b) of such title is amended—

(A) by striking ‘‘and’’ at the end of paragraph (11) and inserting ‘‘and’’;

(B) by striking the period at the end of paragraph (12) and inserting ‘‘and’’; and

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

"(13) coordinate services provided to veterans with training assistance provided to veterans by entities receiving financial assistance under section 738 of the McKinney–Vento Homeless Assistance Act (42 U.S.C. 11442(a))."

SEC. 15. LIFE SAFETY CODE FOR GRANT AND PER DIEM PROVIDER PROGRAMS.

(a) New Grants. — Section 3(b)(5) of the Homeless Veterans Comprehensive Services Program Act of 1992 (38 U.S.C. 7721 note) is amended by striking ‘‘, but fire and safety’’ and all that follows through ‘‘in carrying out the’’ and inserting ‘‘and the fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association’’.

(b) Previous Grants. — Section 4 of such Act is amended by adding at the end the following new paragraph:

"(e) Life Safety Code.—(1) Except as provided in paragraph (2), a per diem payment (or in-kind assistance in lieu of per diem payments) may not be provided under this section to a grant recipient unless the facilities of the grant recipient meet the fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.”

(2) During the five-year period beginning on the date of the enactment of the Heather French Henry Homeless Veterans Assistance Act, paragraph (1) shall not apply to an entity that received a grant under section 3 before that date if the entity meets fire and safety requirements established by the Secretary.

"(3) From amounts available for purposes of the section pursuant to section 12, not less than $5,000,000 shall be used to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association.”

SEC. 16. TRANSITIONAL ASSISTANCE GRANTS PILOT PROGRAM.

(a) Establishment of Program. — The Secretary of Veterans Affairs shall carry out a three-year pilot program of transitional assistance grants to eligible homeless veterans. The pilot program shall be established...
at not less than three nor more than six re-
gional office and shall include at least one re-
gional office located in a large urban area
and at least one regional office serving pri-
marily rural veterans. The maximum num-
ber of veterans who may participate in the
pilot program is 600.
(b) ELIGIBLE VETERANS.—A veteran is eligi-
ble for a transitional assistance grant under
this section if the veteran is physically
present in the geographic area of a regional
office which is participating in the pilot pro-
gram and has been determined by the Sec-
retary, in consultation with the regional
office, to meet the following:
(1) is a veteran of a period of war or, if not
a veteran of a period of war, meets the mini-
 mum service requirements specified in sec-
en 5302A of title 38, United States Code;
(2) is being released, or within the pre-
ceding 60 days was released, from an institu-
tion, including a hospital, a penal institu-
tion, a homeless shelter, or a facility of a
grant and per diem provider;
(3) is a homeless veteran or was a homeless
veteran before institutionalization; and
(4) has an adjusted annual income for the
preceding three months.
(c) DURATION OF GRANT ASSISTANCE.—An
eligible veteran may be provided a transi-
tional assistance grant under this section for
no more than three months.
(d) EXCEPTION TO LIMITATION ON GRANT
ASSISTANCE.—(1) A veteran who receives transi-
tional assistance under this section and
while in receipt of such assistance has a claim
pending with the Secretary for service-
connected disability compensation or nonser-
service-connected pension shall, notwith-
standing subsection (c), continue to be pro-
vided transitional assistance under this sec-
tion after the period prescribed in subsection
(c) until (A) the date on which a decision on the
claim is made by the re-
gional office, or (B) the end of the six-month
period beginning on the date of expiration of
eligibility under subsection (c).
(2) An extension of transitional assistance
under paragraph (1) shall be terminated if,
as determined by the Secretary, the veteran,
without reasonable cause or in cooperation
with the regional office, fails to cooperate
in establishing the pending claim or if the gross
monthly income of the veteran for a month
exceeds twice the amount of transitional as-
sistance received by the veteran for that
month. The effective date of such a termi-
nation shall be the last day of the month
following the month in which the extension
under paragraph (1) is terminated under the
preceding sentence.
(3) Claims of veterans receiving benefits
under this subsection shall receive expedited
consideration by the regional office.
(e) AMOUNT OF GRANT.—(1) The monthly
amount of a grant provided under this sec-
tion to an eligible veteran shall be the amount
of monthly pension that would be
payable to that veteran under chapter 15 of
title 38, United States Code, if the veteran
had a permanent and total nonservice-
connected disability.
(2) Once eligibility for a grant under this
section has been established, the amount of
the grant shall be determined without regard
to the amount of basic or supplemental
benefits other than as provided in subsection
(d)(2).
(f) COORDINATION WITH OTHER BENEFITS.—If
retroactive benefits from the Department of
Veterans Affairs are payable to a veteran
with respect to a month for which the vet-
eran received a transitional assistance grant
under this section, the amount of such retro-
active benefits for such month shall be
reduced (but not below zero) by the amount
of the grant under this section paid
for that month. No reduction may be made
by subtracting an amount otherwise due
a veteran for any other month to offset
an amount paid under this section for a pre-
vious month.
(g) DEFINITIONS.—For purposes of this sec-
tion:
(1) The term ‘‘veteran’’ means a person
who served in the active military, naval, or
air service (as defined in section 101 of title
38, United States Code) and who was dis-
charged or released from any such period of
service under conditions other than dishon-
orable.
(2) The term ‘‘marginal income’’, with re-
spect to a veteran, means income below the
poverty standard (as determined by the Bu-
reau of the Census) for a family of the size of
the veteran’s family.
SEC. 17. ASSISTANCE FOR GRANT APPLICATIONS.
(a) GRANT PROGRAM.—The Secretary of
Veterans Affairs shall carry out a program
to make technical assistance grants to non-
profit community-based groups with experi-
ence in providing assistance to homeless vet-
 erans in order to assist such groups in apply-
 ing for grants under paragraph (1) of SEC. 16
addressing problems of homeless veterans.
(b) FUNDING.—There is authorized to be ap-
propriated to the Secretary of Veterans Af-
fairs for each of fiscal years 2002 through
2006, $750,000 to carry out the program under
this section.
SEC. 18. HOME LOAN PROGRAM FOR MANUFAC-
TURED HOUSING.
Section 3712(a)(1) of title 38, United States
Code, is amended by adding at the end the
following:
‘‘(f) Amount of the grant under this sec-
tion shall be reduced (but not below zero) by
the amount of the grant under this section paid
and by providing necessary resources to com-
bat homelessness. Veterans who served our
country in all wars deserve a better deal than they are cur-
rently receiving from our government. This bill is
an important key to ending this na-
tional disgrace.
As an organization committed to service,
one of the DAV’s top priorities is to help
America’s homeless veterans break the cycle
of poverty and isolation, and move from
the streets to self-sufficiency. Like any other
problem, we can choose whether we will
allow former defenders of our nation to be
defeated by the tragedy of homelessness. Or we
can decide to do something about it, to
combine our efforts and strengthen our abil-
ity to assist these veterans. ‘‘We Don’t Leave
Our Wounded Behind’’ is more than a clever
slogan. It is a principle, a rule, and a promise
we need to keep. This is the time to tap our
hidden resources and strengths.
I encourage you to co-sponsor and support
this important legislation. I appreciate your
prompt attention to this matter when Sen-
ator Wellstone calls upon you to co-sponsor
this legislation.

Sincerely,

Armando C. Alharran,
National Commander.

NATIONAL COALITION FOR
HOMLESS VETERANS,

As the first Miss America of the new mil-
leum Heather French Henry chose to do
so as a bold spokesperson and advocate for
our nation’s homeless veterans. She dedi-
cated, not just a year of service, but a life-
time to creating unprecedented awareness sur-
rounding this issue.
No single individual or group of individuals
has been able to bring the homeless veteran
issue to the national forefront like Heather
French Henry. From the halls of Congress, to
homeless shelters, and to communities
across America, Heather has mobilized indi-
viduals to become involved on a single goal,
ending homelessness among America’s vet-
 erans.
Her sincere dedication and can do attitude
has touched hundreds of lives literally and
figuratively, as she has spoken out to advog-
cate for our nation’s homeless veterans. She dedi-
cated, not just a year of service, but also her
life to creating unprecedented awareness sur-
rounding this issue.

The National Coalition for Homeless Vet-
erans sincerely appreciates Heather French
Henry’s continued commitment to this issue,
the glow of the crown has started to
dim.
We also commend the commitment Sen-
ator Paul Wellstone has made for many
years on the homeless veteran issue. He has
been a consistent, outspoken leader in devel-
oping and implementing public laws that
have brought more Federal resources into
community organizations serving homeless
veterans.

Senator Wellstone’s introduction of the
‘‘Heather French Henry Homeless Veteran
Assistance Act’’, a companion to the (H.R.
936) bill introduced in the House by rep-
resentative Lane Evans (D-IL), is timely be-
cause it takes advantage of the unique infor-
ming alliances between federal, state, and
local governments, and private and public
sector entities to address the homeless issue

"Heather French Henry Homeless Veteran
Assistance Act"
CONGRESSIONAL RECORD—SENATE


Mr. GRASSLEY (for himself, Mr. Baucus, Mr. Graham, Mr. Hatch, Mr. Breaux, Mr. Morkowski, Mr. Kerry, Mr. Jeffords, Mr. Torricelli, Mr. Kyl, Mrs. Lincoln, Mr. Hatch, Mr. Johnson, Mr. Hagel, Mr. Durbin, Mr. Gregg, Mr. Schumer, Mrs. Hutchinson, Mr. Bayh, Mr. Chafee, and Mr. Reid): S. 742. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. I rise today along with Senators Baucus, Graham, Hatch, Breaux, Morkowski, Kerry, Jeffords, Torricelli, Kyl, Lincoln, Hutchinson, Johnson, Hagel, Durbin, Gregg, Schumer, Hutchinson, Bayh, Chafee, and Reid to introduce bipartisan legislation intended to help Americans build a more secure retirement. Many of these members, such as Senator Graham, Hatch, Breaux, and Jeffords have been engaged in pension reform issues for many years. Others, including myself, have joined the reform debate. I want to take a moment to thank them all for their hard work and enthusiasm in this bipartisan effort.

For five years now, Senate Finance Committee has worked on this comprehensive pension reform legislation. In the last Congress, we came very close to enacting it into law. For example, the Finance Committee unanimously reported out the bill in early September 2000. While our bill was not considered on the floor, my colleagues and I are not discouraged. We have built on the work from the last five years in crafting the Retirement Security and Savings Act of 2001.

Many baby boomers will enter retirement ill prepared for the potentially high costs of supporting themselves. Inflation alone can siphon money from a fixed income, reducing a retiree’s standard of living. So it is important to have a considerable sum saved for one’s postemployment years. A fixed income today will generally be worth half the purchasing power 20 years from now, assuming the historical average rate of inflation of 3.25 percent. Having adequate retirement savings can protect against inflation and other unexpected costs. Savings rates are at an historical low, but this bill will provide the incentives individuals need to boost their savings rates.

The Retirement Security and Savings Act of 2001 has six titles: individual retirement accounts; expanding coverage; enhancing fairness for women and families; increasing portability for participants; strengthening pension security and enforcement; and reducing regulatory burdens.

The bill would also help defray the administrative costs of setting up a retirement plan by offering a partial tax credit of the costs associated with starting a plan. Furthermore, the bill would provide an additional credit for small business employers who make an employer contribution to the new retirement plan for the benefit of non-employees. These credits have the potential to expand coverage among small businesses and we hope they will help us to accomplish that objective.

This bill also encourages lower or middle income individuals, to save for their retirement by establishing a retirement savings tax credit. This non-refundable credit will be equal to 50 percent of up to $2000 in contributions for a married couple with an income up to $50,000. The limitations on annual contributions to 401(k) plans would increase from $10,500 to $15,000. The SIMPLE limit would increase to $10,000. We know that pension plans are bought and not sold. In a voluntary system such as ours, retirement plans must be attractive to the business owner in order for him or her to establish a plan in the first place and maintain it over many years. These higher limits help to make qualified plans more attractive, relative to non-qualified plans. When a business establishes a qualified plan, workers benefit, as well as business owners.

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The Retirement Security and Savings Act of 2001 would encourage small businesses to start a retirement plan for their employees by eliminating unnecessary administrative complexity in the top heavy rules. Top heavy rules that apply only to small businesses and, according to an Employee Benefits Research Institute, are the number one regulatory reason why small business owners do not start a pension. While the language in this bill may not go as far as many would like,
the changes we have made are a step in the right direction. Women tend to be somewhat more at risk of living in poverty as they age. There are many causes for this trend. For example, women may have breaks in service to care for young children or for elderly family members. Consequently, we hope this legislation will help women workers more saving options despite periodic departures from the paid workforce.

The Retirement Security and Savings Act partially restores the artificial limits on how much people can save in their employer's pension plan. One of the most burdensome provisions in the Internal Revenue Code is that 25 percent of compensation limitation contained within section 451(c). Under section 451(c), total contributions by employee and employer into a defined contribution plan are limited to 25 percent of compensation or $35,000, whichever is less.

But the retirement savings vehicle available for most private sector workers is also one where the maximum amount a worker can save is currently $10,500. Thus, a worker who makes $40,000 annually could only save $10,000, but the additional $500 allowed by the rules in the Code. My colleagues and I see section 415(c) as an artificial barrier to saving of ordinary Americans and believe the 415(c) limit should be removed.

Our bill also allows catch-up contributions for contributions to defined contribution plans and IRAs. The provision is applicable only to individuals age 50 and older—aiding many who may have started saving late in life or after other major financial obligations were out of the way such as paying down mortgages or sending children to college. It may also help those who were not in the paid labor force while they took time off to care for young children or ailing family members.

This provision is also important for those who save for retirement only through an IRA. As I said a moment ago, the limits on IRAs have not escalated for twenty years. IRA savers have lost out on twenty years of contributions and earnings on those contributions that presumably would have been made had the limits increased with inflation as they do in other plans. Under current law, certain workers who save in section 403(b) plans or 457 (or in some cases a 401(k)) deferred compensation plans for state and local government employees are allowed to make catch-up contributions for a period of time prior to their retirement dates. I know of no justification why catch-up contributions should not be allowed for all types of defined contribution plans. One complaint that plan administrators in the 403(b) and governmental (both 457 and 401(k)) plans have made is that the rules concerning when such catch-up contributions can be and how they must be made are cumbersome. Those plan experts advocate a greatly simplified framework for allowing catch-up contributions such as the one in our bill.

Under current law, an employer may require up to five years of service before an employee is entitled to employer matching contributions to its retirement savings plan. The legislation would reduce the maximum number of years of service required to vest the employer's matching contributions to only three years. A shorter vesting requirement would mean that more short-service workers will have a vested right to their employers' matching contributions. Thus, larger accounts will be available to be saved for retirement despite frequent job changes.

The legislation also contains proposals which promote retirement savings plan portability. The lack of portability among plans is one of the weak links in our current retirement saving system. This is particularly a problem for our public employees for whom current law does not permit rollovers. A police officer or firefighter who leaves public service at age 50 or 55 and begins another career in the private sector may not transfer savings to his or her new plan even if the new employer's plan would accept them. Our bill would change this. It removes unnecessary obstacles to portability for all types of plans in the governmental, not-for-profit and the for-profit sectors of our economy.

In addition, this bill allows public sector workers to take benefits from a defined contribution plan and by serv- ice credit in their defined benefit plan. For example, many school teachers who move from one school district to another may not accrue sufficient years of service in their defined benefit plan to obtain the maximum benefit they need to retire. Yet many school teachers are not entitled to their defined benefit credit themselves and save regularly in their defined contribution plans. Our bill will permit those employees who choose to do so, to "purchase service credit" in the defined benefit plan offered by their employing agency.

It is said that knowledge is power. Knowledge about an individual's pension benefits gives him or her the power to plan for retirement and correct errors before they enter retirement. The legislation would require that plan sponsors provide benefit statements to their participants on a periodic basis. For defined contribution plans, the statement would be required annually. For defined benefit plans, a statement would be required every three years. However, employers who provide an annual notice to employees of the availability of a benefit statement would not be required to provide automatic benefit statements to all employees.

The bill also simplifies and repeals some of the legal requirements that burden plans and increase costs for employers who sponsor pension plans. For example, the legislation seeks to repeal the 10 percent funding limit that is imposed on defined benefit plans. This limit prevents employers from funding their defined benefit plans based on the current liability. This depressed funding level threatens the ability of employers to pay benefits, especially as the Baby Boom begins to retire.

This bill will also adjust the section 415 limits that have harmed many participants in multiemployer pension plans over the years. It will also provide a default option for a rollover to an IRA for certain involuntary cash outs. This is our first look at ways to reduce plan leakage.

In the case of a significant restructuring of a pension plan benefit formula, the Retirement Security and Savings Act of 2001 would require that affected recipients have a benefit estimation tool kit. This would allow pension plan participants to easily determine how their individual benefits would be altered. The bill also directs the Treasury Department to study on the long-term effects of the trend of re- structuring retirement plans.

To reduce the burdens of plan compliance, and to encourage voluntary compliance, the legislation includes a number of proposals intended to peel away at the layers of laws and regulations that add costs to plan administration, but don't add many benefits. The legislation would repeal unnecessary rules bogging down pension administration, such as the multiple use test and the same desk rule. Moreover, mistakes made in administering a pension plan are often inadvertent. The IRS would be directed to simplify and expand its voluntary compliance resolution system.

The Retirement Security and Savings Act of 2001 has considerable bipartisan support. Furthermore, over the years that it has been pending, this legislation has received the support of over 100 organizations. These organizations include business groups and labor unions; large companies and small companies; private sector organizations and organizations representing government employees and many individuals. Few bills in the Senate can claim the diversity of support from organizations that traditionally don't agree on policy that the Retirement Security and Savings Act of 2001 enjoys. I am proud of this fact. I think it is the clearest signal that we need to enact comprehensive pension reform this session.

I am happy to add one more organization to the list of organizations supporting the Retirement Security and Savings Act of 2001. Horace Deets, Executive Director of AARP sent a letter to me this week expressing AARP's support for the legislation.
I will work to pass this critical piece of pension reform legislation this Congress. I urge my colleagues who have not already done so, to support the Retirement Security and Savings Act of 2001 and help Americans build a more secure retirement.

I ask unanimous consent that the text of the Retirement Security and Savings Act of 2001 be printed in the Record.

There being no objection, the bill S. 742 was ordered to be printed in the Record, as follows:

S. 742

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

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

(a) SHORT TITLE.—This Act may be cited as the “Retirement Security and Savings Act of 2001”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; references; table of contents.
Sec. 101. Modification of IRA contribution limits.
Sec. 102. Deemed IRAs under employer plans.
Sec. 103. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 104. Modification of AGI limits for Roth IRA contributions.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 101. Modification of IRA contribution limits.
Sec. 102. Deemed IRAs under employer plans.
Sec. 103. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 104. Modification of AGI limits for Roth IRA contributions.

TITLE II—EXPANDING COVERAGE

Sec. 201. Increase in benefit and contribution limits.
Sec. 203. Modification of top-heavy rules.
Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.
Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 206. Deduction limits.
Sec. 207. Option to treat elective deferrals as after-tax Roth contributions.
Sec. 208. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.
Sec. 209. Credit for qualified pension plan contributions of small employers.
Sec. 210. Credit for pension plan startup costs of small employers.
Sec. 211. Elimination of user fee for requests to IRS regarding new pension plan amendments.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

Sec. 301. Catch-up contributions for individuals age 50 or over.
Sec. 302. Equitable treatment for contributions of employers to defined contribution plans.
Sec. 303. Faster vesting of certain employer matching contributions.
Sec. 304. Minimum distribution rules.
Sec. 305. Clarification of tax treatment of division of section 457 plan benefits.
Sec. 306. Provisions relating to hardship distributions.
Sec. 307. Waiver of tax on nondeductible contributions for domestic or similar workers.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

Sec. 401. Rollovers allowed among various types of plans.
Sec. 402. Rollovers of IRAs into workplace retirement plans.
Sec. 403. Rollovers of after-tax contributions.
Sec. 404. Hardship exception to 60-day rule.
Sec. 405. Treatment of forms of distribution.
Sec. 406. Rationale of restrictions on distributions.
Sec. 407. Purchase of service credit in government defined benefit plans.
Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.
Sec. 409. Minimum distribution and inclusion requirements for section 401(k) plans.

TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

Subtitle A—General Provisions
Sec. 501. Repeal of 155 percent of current liability funding limit.
Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.
Sec. 503. Excise tax relief for sound pension funding.
Sec. 504. Treatment of multiemployer plans under section 415.
Sec. 505. Protection of investment of employee contributions to 401(k) plans.
Sec. 506. Periodic pension benefits statements.
Sec. 507. Prohibited allocations of stock in S Corporation ESOP.
Sec. 508. Automatic revocation of certain mandatory distributions.

Subtitle B—Treatment of Plan Amendments Reducing Future Benefit Accruals
Sec. 521. Notice of required pension plan amendments having the effect of significantly reducing future benefit accruals.

TITLE VI—REDUCING REGULATORY BURDENS

Sec. 601. Modification of timing of plan valuations.
Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.
Sec. 603. Repeal of transition rule relating to certain highly compensated employees.
Sec. 604. Employees of tax-exempt entities.
Sec. 605. Clarification of treatment of employer-provided retirement advice.
Sec. 606. Reporting simplification.
Sec. 607. Improvement of employee plans' valuations.
Sec. 608. Repeal of the multiple use test.
Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.
Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
Sec. 611. Notice and consent period regarding distributions.
Sec. 612. Annual report dissemination.
Sec. 613. Technical corrections to Saver Act.
Sec. 614. Studies.

TITLE VII—OTHER ERISA PROVISIONS

Sec. 701. Missing participants.
Sec. 702. Reduced PBGC premium for new plans of small employers.
Sec. 703. Reduction of additional PBGC premium for new and small plans.
Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 705. Substantial owner benefits in terminated plans.
Sec. 706. Civil penalties for breach of fiduciary responsibility.
Sec. 707. Benefit suspension notice.

TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 101. Modification of IRA contribution limits.

(a) INCREASE IN CONTRIBUTION LIMIT.—
(1) IN GENERAL.—Paragraph (1)(A) of section 219(b) (relating to maximum amount of deduction) is amended by striking “$2,000” and inserting “the deductible amount”.

(2) DEDUCTIBLE AMOUNT.—Section 219(b) is amended by adding at the end the following new paragraph:

“(5) DEDUCTIBLE AMOUNT.—For purposes of paragraph (1)(A)—

“(A) IN GENERAL.—The deductible amount shall be determined in accordance with the following table:

For taxable years beginning in calendar year:

<table>
<thead>
<tr>
<th>Year</th>
<th>Deduction amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$5,000</td>
</tr>
<tr>
<td>2003</td>
<td>$4,000</td>
</tr>
<tr>
<td>2004 and thereafter</td>
<td>$5,000.</td>
</tr>
</tbody>
</table>

“(B) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS 50 OR OLDER.—In the case of an individual who has attained the age of 50 before the close of the taxable year, the deductible amount for such taxable year shall be an amount equal to 150 percent of such amount determined without regard to this subparagraph.

“(C) COST-OF-LIVING ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any tax year beginning in calendar year 2003, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(11) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.”.

(b) INCREASE IN AGI LIMITS FOR ACTIVE PARTICIPANTS.

(1) JOINT RETURNS.—The table in clause (i) of section 219(g)(3)(B) (relating to applicable dollar amount) is amended to read as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Deduction amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$66,000</td>
</tr>
<tr>
<td>2003</td>
<td>$66,000</td>
</tr>
<tr>
<td>2004</td>
<td>$64,000</td>
</tr>
<tr>
<td>2005</td>
<td>$68,000</td>
</tr>
</tbody>
</table>
CONGRESSIONAL RECORD—SENATE

SEC. 103. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

"(B) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

"(1) IN GENERAL.—In the case of a qualified charitable distribution from an individual retirement account to an organization described in section 170(c), no amount shall be includible in the gross income of the account holder or beneficiary.

"(2) SPECIAL RULES FOR CHARITABLE REMAINDER TRUSTS, POOLED INCOME FUNDS, AND CHARITABLE GIFT ANNUITIES.—

"(A) GENERAL.—In general, no amount shall be includible in the gross income of the account holder or beneficiary."

SEC. 104. MODIFICATION OF AGI LIMITS FOR IRRAS.

(a) INCREASE IN AGI LIMIT FOR ROTH IRA CONTRIBUTIONS.—

"(1) IN GENERAL.—Section 408A(a)(9)(C)(i) (relating to limits based on modified adjusted gross income) is amended by inserting "or (c)" after "subsection (b)."

"(2) PHASEOUT AMOUNT.—Clause (ii) of section 408A(c)(3)(A) is amended to read as follows:

"(ii) $15,000 ($30,000 in the case of a joint return)."

(b) INCREASE IN AGI LIMIT FOR ROTH IRA DISTRIBUTIONS.—

"(1) IN GENERAL.—Section 408A(c)(3)(B) (relating to rollover from IRA) is amended by striking "relates to" and all that follows and inserting "relates.""

"(2) PHASEOUT AMOUNT.—Clause (i) of section 408A(c)(3)(A) is amended to read as follows:

"(i) $95,000.

"(c) CONFORMING AMENDMENT.—Section 408A(a)(3) is amended by striking subparagraph (D).

"(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.

(a) DEFINED BENEFIT PLANS.—

"(1) DOLLAR LIMIT.—

"(A) IN GENERAL.—Section 415(b) (relating to limitation for defined benefit plans) is amended by striking "$300,000" and inserting "$600,000".

"(B) PHASEOUT AMOUNT.—Clause (ii) of section 415(b)(3) (relating to rollover from IRA) is amended by striking "relates to" and all that follows and inserting "relates.""

SEC. 202. TITLE II—EXPANDING COVERAGE
greater of $62,212 or one-half the amount otherwise attributable for such year under paragraph (1)(A) for $90,000." and inserting "one-half the amount otherwise applicable for such year under paragraph (1)(A) for $150,000.'".

(2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking "the social security retirement age" each place it appears in the heading and text and inserting "age 62" and by striking the second sentence.

(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking "social security retirement age" each place it appears in the heading and text and inserting "age 65".

(4) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) by striking "$90,000" in paragraph (1)(A) and inserting "$160,000"; and

(B) in paragraph (3)(A)—

(i) by striking "$500" in the heading and inserting "$150,000"; and

(ii) by striking "October 1, 1986" and inserting "July 1, 2001".

(5) CONFORMING AMENDMENTS.—

(A) Section 415(b)(2) is amended by striking subparagraph (F).

(B) Section 415(b)(9) is amended to read as follows:

"(9) SPECIAL RULE FOR COMMERCIAL AIRLINE PILOTS.—In the case of any participant who is a commercial airline pilot, if, as of the time of the participant's retirement, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot at a rate from service as a commercial airline pilot at any age occurring on or after age 60 and before age 62, paragraph (2)(C) shall be applied by substituting such age for age 62.".

(C) Section 415(b)(10)(B)(i) is amended by striking "applied without regard to paragraph (2)(F)".

(b) QUALIFIED TRUSTS.—Subsection (c) of section 401(a)(17), 401(k), 408(k), and 503(b)(7) is each amended by striking "$150,000" each place it appears and inserting "$200,000".

(c) LOAN EXCEPTION.—Subparagraph (c) of section 401(a)(17) is amended—

(A) by striking "October 1, 1993" and inserting "July 1, 2001"; and

(B) by striking "$10,000" both places it appears and inserting "$50,000".

(d) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:

"(1) IN GENERAL.—(A) LIMITATION.—(i) Notwithstanding subparagraphs (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.

(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$11,000</td>
</tr>
<tr>
<td>2003</td>
<td>$12,000</td>
</tr>
<tr>
<td>2004</td>
<td>$13,000</td>
</tr>
</tbody>
</table>

"(ii) ANNUAL LIMIT reduction.—For purposes of subparagraph (A)(i), the term 'owner-employee' shall only include a person described in clause (ii) or (iii) of subparagraph (A)."

(e) SIMPLE RETIREMENT ACCOUNTS.—

(1) LIMITATION.—Clause (ii) of section 408(p)(2)(A) (relating to general rule for qualified salary reduction arrangement) is amended by striking "$90,000" and inserting "the applicable dollar amount".

(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of section 408(p)(2) is amended to read as follows:

"(E) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—"
(D) by striking the second sentence in the matter following clause (ii), as redesignated by subparagraph (C); and
(E) by adding at the end the following:
"For purposes of this subparagraph, in the case of an employee who is not employed during the preceding plan year or is employed for a portion of such year, such employee shall be treated as a key employee if it can be reasonably anticipated that such employee will be described in 1 of the preceding clauses for the current plan year.",

(2) CONFORMING AMENDMENT.—Section 416(c)(2)(A) is amended by striking "and subparagraph (A)(ii)"

(b) Matching Contributions Taken Into Account for Minimum Contribution Requirement.—Section 416(c)(3)(A) (relating to defined contribution plans) is amended by adding at the end following the last sentence: "at the end of the following new subsection:

"(b) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITATIONS.—Section 402(g)(3) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.".

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

SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 401(m)(4)(A) (relating to defined contribution plans) is amended by striking "5-year period" and inserting "LAST 5 YEARS" in the heading and inserting "LAST 5 YEARS BEFORE DETERMINATION DATE". The amendments made by this section shall apply to years beginning after December 31, 2001.

SEC. 206. DEDUCTION LIMITS.

(a) MODIFICATION OF LIMITS.—

(1) STOCK BONUS AND PROFIT SHARING TRUSTS.—

(A) IN GENERAL.—Subchapter D of chapter 1 (relating to defined contribution plans) is amended by striking "such trust subject to subsection (c) of section 408(e)"

(b) CONFORMING AMENDMENTS.—Subparagraph (C) of section 414(c)(3) is amended by inserting before the period at the end the following:

"in the case of an eligible trust which is subject to the funding standards of section 412 and is treated as a plan which is subject to the funding standards of section 412 or any similar plan which is treated as a plan which is subject to the funding standards of section 412.

"(A) the maximum amount of elective deferrals which an employee may designate under paragraph (1) shall be limited to the lesser of—

"(B) any designated Roth contribution program unless the applicable retirement plan

(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of determining an employee's years of service with the employer, any service with the employer shall not be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 401(m)(4)(A)) are not provided to any key employee or former key employee.

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

SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.

(a) IN GENERAL.—Section 404 (relating to defined contribution plans) is amended by inserting before the period at the end the following:

"in the case of a Roth contribution program unless the applicable retirement plan

(b) Clause (i) of section 402(c)(6)(B) is amended by striking "(as modified by any adjustment provided under subsection (b)(3))" and inserting "(as modified by any adjustment provided under subsection (b)(ii))".

(c) Effectiveness of Amendments.—The amendments made by this section shall take effect on January 1, 2002.
``(1) A term 'qualified distribution' has the meaning given such term by section 402A(a)(2)(A) (without regard to clause (iv) thereof).

``(2) For purposes of this section—

``(i) any elective deferral of compensation (as defined in section 402(c)(8)) of such individual, and

``(ii) any elective deferral of compensation (as defined in section 402A(c)(3)).

``(3) Treatment of distributions of certain excess deferrals—

``(a) in general.—Subpart A of part IV of subchapter D of chapter 1 is amended by adding after the end of paragraph (1) (A) the following subparagraph:

``(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

``(4) Elective Deferral.—

``(a) in general.—The term 'elective deferral' means any elective deferral described in subparagraph (A) or (C) of section 402(g)(3).

``(c) Distributions of excess deferrals and contributions and earnings thereon.—

``(A) in general.—The term 'qualified distribution' shall not include any distribution of any excess deferral under section 402(g)(2) or any excess contribution under section 401(k)(8), and any income on the excess deferral or contribution.

``(B) in general.—The term 'qualified distribution' shall not include—

``(i) any elective deferrals (as defined in section 402A) to make such refundable personal credits.

``(2) reporting requirements.—

``(A) W-2 information.—Section 6051(a)(8) is amended by inserting ''(or would be included but for the last sentence thereof) after ''(1)'' in paragraph (3)(A).

``(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

``(C) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

``(B)赀旦on of information.—Section 6047 is amended by inserting after the end of section 6047 the following new subsection:

``Sec. 25B. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

``(a) in general.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits) is amended by inserting after section 457(b) the following new section:

``Sec. 25B. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

``(a) allowance of credit.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this title for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed $2,000.

``(b) applicable percentage.—For purposes of this section, the applicable percentage is the percentage determined in accordance with the following table:
or from an eligible deferred compensation plan (as defined in section 457(b)), received by the individual during the testing period which is includible in gross income, and

(ii) any distribution from a Roth IRA received by the individual during the testing period which is not a qualified rollover contribution (as defined in section 408(a)(e)) to a Roth IRA.

(2) Testing period.—For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

(i) such taxable year,

(ii) the 2 preceding taxable years, and

(iii) the period after such taxable year and before the due date (including extensions of time for filing) of the return for such taxable year.

(3) Exception.—There shall not be taken into account under subparagraph (A) any distribution received by an individual during a taxable year which is includible in gross income, and before the due date (including extensions of time for filing) of the return for such taxable year.

(4) Exceptions.—For purposes of section 36, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for this section) be allowable by section 25B for the taxable year reduced by the sum of the contributions and benefits under the Social Security Act.

(B) Credit Allowed Against Regular Tax.—

(1) In general.—Subsection (a) of section 25B, as added by subsection (a), is amended by inserting after subsection (b)(2) the following new subsection:

"(c) Exception.—The requirements of section 36, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have the credit determined under subsection (d)."

(2) Election not to claim credit.—This paragraph shall not apply to a taxpayer for any taxable year if such taxpayer elects to have the credit determined under subsection (d).

(3) Vested interest.—For purposes of this section, "vested interest," with respect to an employee who is not a highly compensated employee, includes—

"(A) any distribution referred to in section 401(k)(3), 401(m)(6), 402(g)(2), 404(k), or 408(d)(3), and

"(B) any distribution referred to in section 408(d)(3).

(4) Limitation based on amount of tax.—The aggregate credit allowed by this section for the taxable year shall not exceed the sum of—

"(A) the tax imposed by section 55 for such taxable year."
(g) Recapture of Credit on Forfeited Contributions.—

"(1) In General.—Except as provided in paragraph (2), if any accrued benefit which is forfeitable by reason of subsection (d)(3) is forfeited, the employer's tax imposed by this chapter with respect to any taxable year in which the forfeiture occurs shall be increased by 35 percent of the employer contributions from which such contributions were taken into account in determining the credit under this section.

"(2) Allocating Contributions.—Paragraph (1) applies to any contribution which is reallocated by the employer under the plan to employees who are not highly compensated employees.

(b) Credit Allowed as Part of General Business Credit.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following new paragraph:

"(14) in the case of an eligible employer (as defined in section 45E(e)), the small employer pension plan contribution credit determined under section 45E(a)."

(c) Conforming Amendments.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(15) in the case of an eligible employer (as defined in section 45E(e)), the small employer pension plan contribution credit determined under section 45E(a)."

(2) Subsection (c) of section 196, as amended by adding at the end the following new paragraph:

"(1) No carryback of small employer pension plan contribution credit before January 1, 2002.

(2) Subsection (c) of section 196 is amended by striking "and", by adding at the end the following new paragraph:

"(10) the small employer pension plan contribution credit determined under section 45E(a)."

(3) The table of sections for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45F. Small employer pension plan contributions."

(d) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001.

SEC. 210. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 209, is amended by adding at the end the following new section:

"SEC. 45F. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

"(a) General Rule.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

"(b) Dollar Limitation.—The amount of the credit determined under this section for any taxable year cannot exceed—

"(1) $500 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

"(2) zero for any other taxable year.

"(c) Eligible Employer.—For purposes of this section—

"(1) In General.—The term 'eligible employer' for the purposes of determining the amount of the credit determined under section 45F for any taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45F may be carried back to a taxable year beginning before January 1, 2002.

"(2) Subsection (c) of section 196, as amended by adding at the end the following new paragraph:

"(ii) the retirement-related education of any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with such contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

"(d) Other Definitions.—For purposes of this section:

"(1) Qualified startup costs.—

"(A) In General.—The term 'qualified startup costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

"(i) the establishment or administration of an eligible employer plan, or

"(ii) the retirement-related education of employees with respect to such plan.

"(B) Plan Design.—The term 'plan design' means a plan design that—

"(1) is not an approved plan design, or

"(2) that has the terms and conditions of the plan as described in subsection (a) for purposes of this section.

"(2) Credit Allowed as Part of General Business Credit.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following new paragraph:

"(1) No carryback of small employer pension plan contribution credit before January 1, 2002.

"(2) The table of sections for part IV of subchapter A of chapter 1, as amended by section 209(c), is amended by adding at the end the following new item:

"(sec. 45F. Small employer pension plan startup costs.

(d) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001.

SEC. 211. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING NEW PENSION PLANS.

(a) Elimination of Certain User Fees.—The Secretary of the Treasury or the Secretary’s delegate shall not require payment of user fees under the program established under section 1051 of the Revenue Act of 1987 for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters or similar requests with respect to the qualified status of a new pension benefit plan or any trust which is part of the plan.

(b) New Pension Benefit Plan.—For purposes of this section—

(1) In General.—The term "new pension benefit plan" means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan which is maintained by one or more eligible employers if such employer (or any predecessor employer) has not made a prior request described in subsection (a) for such plan (or any predecessor plan).

(2) Eligible Employer.—The term "eligible employer" shall not include an employer if, during the 3-taxable year period immediately preceding the taxable year in which the request is made, the employer or any predecessor employer has not made any contribution to the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

(c) Effective Date.—The provisions of this section shall apply with respect to requests made after December 31, 2001.

TITLE III—ENHANCING FAIRNESS FOR WOMEN

SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGED 50 OR OVER.

(a) In General.—Section 41H (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(v) Catch-Up Contributions for Individuals Aged 50 or Over.—

"(1) In General.—An applicable employer plan with respect to which an eligible employee does not have at least 1 employee eligible to participate who is not a highly compensated employee, shall not be treated as a single employer under subsection (a) for purposes of this section:

"(2) Limitation on Amount of Additional Deferrals.—"
(A) IN GENERAL.—A plan shall not permit addition of elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

(i) the applicable percentage of the applicable dollar amount for such elective deferrals for such year, or

(ii) the excess (if any) of—

(I) the participant’s compensation (as defined in section 415(c)(3)) for the year, over

(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>10</td>
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<tr>
<td>2003</td>
<td>25</td>
</tr>
<tr>
<td>2004</td>
<td>30</td>
</tr>
<tr>
<td>2005</td>
<td>40</td>
</tr>
<tr>
<td>2006 and thereafter</td>
<td>50.</td>
</tr>
</tbody>
</table>

(3) TREATMENT OF CONTRIBUTIONS.—In the case of any contribution by a plan to a plan under paragraph (1)—

(A) such contribution shall not, with respect to the year in which the contribution is made—

(i) be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(b), 406(k), 408(p), 415, or 457, of the Internal Revenue Code of 1986, as in effect before the enactment of the Retirement Security and Savings Act of 2001.

(ii) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

(B) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 408B, 401(b), or 416 by reason of the making of (or the right to make) such contribution.

(4) ELIGIBLE PARTICIPANT.—For purposes of this subsection, the term ‘eligible participant’ means, with respect to any plan year, a participant in a plan—

(A) who has attained the age of 50 before the close of the plan year, and

(B) with respect to whom no other elective deferrals may (without regard to this subsection) be made to the plan for the plan year by reason of any limitation or other restriction described in paragraph (3) or comparable limitation or restriction contained in the terms of the plan.

(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

(A) APPLICABLE DOLLAR AMOUNT.—The term ‘applicable dollar amount’ means, with respect to any year, the amount in effect under section 402(g)(1)(B), 406(p)(2)(E)(i), or 457(e)(15)(A), whichever is applicable to an applicable employer plan, for such year.

(B) APPLICABLE EMPLOYER PLAN.—The term ‘applicable employer plan’ means—

(i) an employee’s trust described in section 401(a) which is exempt from tax under section 501(a), or

(ii) a plan under which amounts are contributed or accumulated by an applicable employer plan under section 403(b), to the extent that such plan meets the requirements of section 403(b)(12), 403(b)(13), 403(b)(14), or 408B, as applicable.

(C) ELIGIBLE DEFERRAL.—The term ‘eligible deferral’ has the meaning given such term by subsection (a)(2)(C) of section 402B.

(6) SPECIAL RULES FOR CERTAIN 403(b) PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (B)(iii) for any year to which section 457(b)(3) applies.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions in taxable years beginning after December 31, 2006.

SEC. 402. SUBSTANTIVE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFINED CONTRIBUTION PLANS.

(a) EQUITABLE TREATMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 401(a)(1) relating to limitation for defined contribution plans is amended by striking ‘‘25 percent’’ and inserting ‘‘100 percent’’.

(2) APPLICATION TO SECTION 401(b).—Section 401(b) is amended—

(A) by striking the ‘‘exclusion allowance for such taxable year’’ in paragraph (1) and inserting ‘‘the applicable limit under section 415’’,

(B) by striking paragraph (2); and

(C) by inserting ‘‘or any amount received by a former employee after the fifth taxable year following the taxable year in which such election was terminated’’ before the period at the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) is amended by inserting ‘‘section 402(g)(2)(D)(ii)’’ in place of ‘‘section 402(g)(ii)’’.

(B) Section 402(a)(1)(B) is amended by striking ‘‘, the exclusion allowance under section 402(b)(2),’’.

(C) Section 402(a)(2) is amended by striking ‘‘, and the amount of the contribution for such portion shall be treated as excluded as provided in section 402(b)(2),’’.

(D) Section 415(d)(10) is amended by adding at the end the following new subparagraph:

‘‘(E) ANNUITY CONTRACTS.—In the case of an annuity contract described in section 403(b), the term ‘participant’s compensation means the participant’s includible compensation determined under section 403(b)(8).’’

(E) Section 415(c) is amended by striking paragraph (4).

(F) Section 415(c)(7) is amended to read as follows:

‘‘(C) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMIT.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(c)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant’s account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

(B) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

(C) ANNUAL ADDITION.—For purposes of this paragraph, the term ‘annual addition’ has the meaning given such term by paragraph (2).

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 201(c)(3)) is amended by inserting before the period at the end of such subparagraph the following:

‘‘the enactment of the Retirement Security and Savings Act of 2001’’.

(b) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—

(1) IN GENERAL.—Subsection (k) of section 457 is amended by adding at the end the following new paragraph:

‘‘(L) A PPLICATION TO SECTION 403(b).—Section 403(b) is amended—

(A) by striking ‘‘the applicable limit under section 415’’,

(B) by striking paragraph (2); and

(C) by inserting ‘‘or any amount received by a former employee after the fifth taxable year following the taxable year in which such election was terminated’’ before the period at the end of the second sentence of paragraph (3).

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.
(a) IN GENERAL.—Section 411(a) (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (12), a plan"; and

(2) by adding at the end the following:

"(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 411(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

(A) by subtracting 3 years for '5 years' in subparagraph (A), and

(B) by substituting the following table for the table contained in subparagraph (B): The nonforfeitable percentage is:

| Years of service | The nonforfeitable percentage of the contributions
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>20</td>
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<td>3</td>
<td>40</td>
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<td>4</td>
<td>60</td>
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<tr>
<td>5</td>
<td>80</td>
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<td>6</td>
<td>100</td>
</tr>
</tbody>
</table>

(b) AMENDMENT OF ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking "A plan" and inserting "Except as provided in paragraph (4), a plan", and

(2) by adding at the end the following:

"(4) DISTRIBUTIONS.—In the case of matching contributions (as defined in section 411(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

(A) by subtracting 3 years for '5 years' in subparagraph (A), and

(B) by substituting the following table for the table contained in subparagraph (B): The nonforfeitable percentage is:

| Years of service | The nonforfeitable percentage of the contributions
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>2</td>
<td>20</td>
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<td>3</td>
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<tr>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td>6</td>
<td>100</td>
</tr>
</tbody>
</table>

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2001.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement terminating on or after such date, the amendments made by this section shall not apply to contributions made after such date as a qualified domestic relations order entered before such date shall be treated as a domestic relations order even if such order does not meet the requirements of such amendments.

SEC. 302. MINIMUM DISTRIBUTION RULES.

(a) REPEAL OF RULE WHERE DISTRIBUTIONS HAD BEGUN BEFORE DEATH OCCURS.—

(1) IN GENERAL.—Subparagraph (B) of section 401(a)(9)(B) (as so redesignated) is amended—

(A) by striking "(ii)(I)" and inserting "(ii)(II)";

(B) by striking the last sentence; and

(C) by striking "(iii)(II)" and inserting "(iii)(III)".

(b) EFFECTIVE DATE.—

The amendment made by this section shall apply to distributions required to begin under section 401(a)(9)(B) of the Internal Revenue Code of 1986 before such amendments.

SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER MATCHING CONTRIBUTIONS.

SEC. 304. MINIMUM DISTRIBUTION RULES.

(a) REPEAL OF RULE WHERE DISTRIBUTIONS HAD BEGUN BEFORE DEATH OCCURS.—

(1) IN GENERAL.—Subparagraph (B) of section 401(a)(9)(B) (as so redesignated) is amended—

(A) by striking "(ii)(I)" and inserting "(ii)(II)";

(B) by striking the last sentence; and

(C) by striking "(iii)(II)" and inserting "(iii)(III)".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to contributions and, and payments made after December 31, 2001.

(2) AMENDMENTS RELATING TO ASSIGNMENTS IN DIVORCE, ETC.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2002, except that in the case of a domestic relations order entered before such date, the plan administrator—

(A) shall treat such order as a qualified domestic relations order if such administrator is paying benefits pursuant to such order on such date, and

(B) may treat any other such order entered before such date as a qualified domestic relations order even if such order does not meet the requirements of such amendments.

SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION OF SECTION 457 PLAN BENEFITS UPON DIVORCE.

SEC. 306. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBUTIONS FOR DOMESTIC OR SIMILAR WITNESS.

SEC. 307. WAIVER OF TAX ON NONDEDUCTIBLE CONTRIBUTIONS FOR DOMESTIC OR SIMILAR WITNESS.

SEC. 308. SAFE HARBOR DISTRIBUTIONS.

SEC. 309. PROVISIONS RELATING TO HARDSHIP DISTRIBUTIONS.

SEC. 310. MODIFICATION OF DEFINITION OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

SEC. 311. PROVISIONS RELATING TO DISTRIBUTIONS TO SURVIVING SPOUSE.
(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.

(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—

(1) ROLLOVERS FROM SECTION 457 PLANS.—

(A) IN GENERAL.—Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking subsection (ii)(1) and inserting the following:

"(ii) the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A)."

(B) SEPARATE ACCOUNTING.—Section 402(c) is amended by inserting at the end the following new paragraph:

"(11) SEPARATE ACCOUNTING.—Unless a plan described in clause (v) of paragraph (b) of section 408(d)(3), or 408(d)(3), is amended by inserting 'or 457(e)(16)'."

(C) 10 PERCENT ADDITIONAL TAX.—Subparagraph (t) of section 72 (relating to 10-percent additional tax on early distributions) is amended by inserting 'and 457(e)(16)'.

(D) WITHHOLDING.—Subparagraph (D) of the provisions under which distributions from a qualified retirement plan may be made to an individual (as defined in clause (vi) of section 402(c)(8)(B)) of an eligible employer described in section 457(e)(1)(A) of the Internal Revenue Code of 1986 applies for purposes of subparagraph (A), except that section 402(f) shall be applied to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 401(k) of the Internal Revenue Code of 1986) to the extent that such distribution is attributable to the amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 401(k) of the Internal Revenue Code of 1986)."

(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403(b) PLANS.—

(1) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollovers from such retirement plan) is amended by striking "another qualified retirement plan" and inserting "an eligible retirement plan for the benefit of an individual not later than the 60th day after the date on which the portion of the amount received which is includible in gross income (determined without regard to this paragraph) is paid into such plan, or (ii) an amount received which is includible in gross income for the taxable year in which paid."

(c) DIRECT ROLLOVER.—Paragraph (1) of section 402(c) is amended by striking "and" at the end of the period described in section 457(e)(1) and inserting "and", and by inserting after subparagraph (B) the following:

"(C) a rollover distribution to an eligible retirement plan or (vi) of section 402(c)(8)(B)."

(D) INDIRECT ROLLOVER.—Paragraph (2) of section 402(c) is amended by striking "and" at the end of clause (ii), by striking clauses (i) and (ii) of section 408(d)(3) (relating to rollover amounts) and inserting "408(d)(3), or 457(e)(16)'."

(E) SPECIAL RULE FOR ROLLOVERS TO SECTION 457 PLANS.—For purposes of this section, a distribution from an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A) shall be treated as a distribution from a qualified retirement plan described in section 4974(c)(1) to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 4974(c)(1)) of the Internal Revenue Code of 1986, except that under this section, any portion of the balance to the credit of an individual if there was a rollover to an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which the amount received which is includible in gross income (determined without regard to this paragraph) is paid into such plan shall be treated as a rollover distribution to the plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by adding "or" at the end of clause (i), by striking clauses (ii) and (iii), and by inserting at the end the following:

"(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan for the benefit of individual not later than the 60th day after the date on which the portion of the amount received which is includible in gross income (determined without regard to this paragraph) is received, except that the maximum amount which may be paid into such plan shall not exceed the portion of the amount received which is includible in gross income (determined without regard to this paragraph)."

For purposes of clause (ii), the term 'eligible retirement plan' means an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 402(c) is amended by striking "section 408(d)(3)(A)(ii)" and inserting "section 408(d)(3)(A)(i)".
(2) Clause (i) of section 408(d)(3)(D) is amended by inserting "(i), (ii), or (iii)" and inserting "(i) or (ii)"

(3) Subparagraph (G) of section 408(d)(3) is amended to read as follows:

"(G) SIMPLE RETIREMENT ACCOUNTS.—In the case of any contributions or distribution out of a simple retirement account (as defined in subsection (p) to which section 72(t)(6) applies, this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account."

(c) EFFECTIVE DATE; SPECIAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2001.

(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (i) or (ii) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted by paragraph (2) or (3) of section 402(c)(8)(B).

SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.

SEC. 405. TREATMENT OF FORMS OF DISTRIBUTION.

(a) PLAN TRANSFERS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (6) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following:

"(I) a defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(ii) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan prior to a direct transfer rather than pursuant to a distribution from the transferee plan; and

"(ii) the forms of distribution previously available under any defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

(2) REGULATIONS.—

"(I) in general.—A defined contribution plan (in this subparagraph referred to as the 'transferor plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

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

(4) REGULATIONS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—The last sentence of section 408(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)) is amended by adding at the end the following:

"(2) A defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

(3) EFFECTIVE DATE.—
U.S.C. 1054(g)(2) is amended to read as follows:

“(b) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.”

SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) 403(b) PLANS.—Subsection (b) of section 403(b) is amended by adding at the end the following:

“(B) for the purchase of permissive service credit (as defined in section 415(d)(3)(A)) under such plan, or

“(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 2001.

SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR PURPOSES OF CASH-OUT AMOUNTS.

(a) QUALIFIED PLANS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(a)(11) (relating to restrictions on certain rollover distributions) is amended by adding at the end the following:

“(B) Special Rule for Rollover Contributions.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto).

For purposes of this subparagraph, the term ‘rollover contributions’ means any rollover contributions (and earnings allocable thereto).

(b) E INCLUSION IN GROSS INCOME.—Section 204(g)(2) is amended to read as follows:

“(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 2001.

SEC. 409. MINIMUM DISTRIBUTION AMOUNTS.

(1) Qualified plans.—

(a) Minimum Distribution Requirements for Section 403(b) Plans.

(3) Special Rule for Government Plan.—

An eligible deferred compensation plan of an employer described in subsection (e)(1)(B) shall not be treated as failing to meet the requirement of this subsection solely by reason of making a distribution described in subsection (e)(9)(A).”.

(c) Modification of Transition Rules for Exempt Plans.

(1) In General.—Section 1106(c)(3)(B) of the Tax Reform Act of 1986 is amended by striking “or” at the end of clause (i), by striking “or” and inserting “or” and by inserting after clause (ii) the following new clause:

“(ii) deferred pursuant to an agreement described in clause (ii), to the extent the aggregate amount under such agreement with the individual does not exceed—

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act with respect to increases in the Consumer Price Index after September 30, 1993.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to distributions after December 31, 2001.

TITLE V—STRENGTHENING PENSION SECURITY AND ENACTMENT OF GENERAL PROVISIONS

Subtitle A—General Provisions

SEC. 501. REPEAL OF 155 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.

(a) Amendments to Internal Revenue Code.—Section 412(c)(7) (relating to full-funding limitations) is amended by striking “the applicable percentage” in subparagraph (A)(i)(I) and inserting “in
the case of plan years beginning before January 1, 2005, the applicable percentage shall not be taken into account so much of the contributions to one or more defined contribution plans for the year, and then to amounts contributed to a defined benefit plan and then to amounts described in section 402(g)(2)(A).

F. APPLICABLE PERCENTAGE—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>159</td>
</tr>
<tr>
<td>2003</td>
<td>165</td>
</tr>
<tr>
<td>2004</td>
<td>170</td>
</tr>
</tbody>
</table>

G. EFFECTIVE DATE—The amendments made by this section shall apply to plan years beginning after December 31, 2001.

SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUNDING.

(a) IN GENERAL.—Subsection (c) of section 4972 (relating to nondeductible contributions) is amended by adding at the end the following new paragraph:

"(7) DEFINED BENEFIT PLAN EXCEPTION.—In determining the amount of nondeductible contributions for any taxable year, an employer may elect for such year not to take into account any contributions to a defined benefit plan except to the extent that such contributions exceed the full-funding limitation as determined without regard to subparagraph (A)(i)(I) thereof. For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined contribution plan and then to amounts described in this paragraph. If an employer makes an election under this paragraph for a taxable year, paragraph (6) shall not apply to such employer for such taxable year."

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

SEC. 504. TREATMENT OF MULTILIBERATOR PLANS.

(a) COMPENSATION LIMIT.—In the case of a governmental plan (as defined in section 414(f)), subparagraph (B) of section 415(b)(7) (relating to benefits under certain plans) is amended to read as follows:

"(3) EXCISE TAX RELIEF FOR GOVERNMENTAL AND MULTILIBERATOR PLANS.—In the case of a governmental plan (as defined in section 414(f)) or a multilibrator plan (as defined in section 414(f)), the deductibility (as defined in section 415) of benefits described in section 415(b)(7)(A) shall be treated as met with respect to a participant if the administrator provides the participant with a plan statement containing the plan at the time the statement is furnished to each other such plan.''

STATISTICAL Table: SEC. 501(a).

- (a) General.—Section 1524(b) of the Taxpayer Relief Act of 1997 is amended to read as follows:

"(b) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1996.

SEC. 505. PROTECTION OF INVESTMENT OF EMPLOYEE CONTRIBUTIONS.

(a) IN GENERAL.—Section 522(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)) is amended to read as follows:

"(1) IN GENERAL.—If the total benefits accrued, and

"(ii) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(b) shall be written in a manner calculated to be understood by the average plan participant, and

"(C) may be provided in written, electronic, telephonic, or other appropriate form.
SECTION 507. PROHIBITED ALLOCATIONS OF STOCK IN AN S CORPORATION.

(a) In General.—Section 409 (relating to qualifications for tax credit employee stock ownership plans) is amended by redesignating subsection (p) as subsection (q) and amending paragraphs (1) and (4) to read as follows:

"(1) in the case of an allocation referred to in paragraph (1) or (2) of subsection (a), by—

(ii) such person's share of deemed-owned shares of such corporation to the extent provided in paragraphs (2) and (3) of section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

"(4) Disqualified Person.—For purposes of this subsection—

(A) In General.—The term 'disqualified person' means any person if—

(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

"(B) Treatment of Family Members.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as owning deemed-owned shares. If not otherwise treated as a disqualified person under subparagraph (A).

"(C) Deemed-Owned Shares.—

(i) In General.—An employee stock ownership plan, except to the extent provided in paragraphs (2) and (3) of section 318(a). If, with respect to an individual, the term 'member of the family' means any person if—

(ii) such person's share of deemed-owned shares of such corporation to the extent provided in paragraphs (2) and (3) of section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

"(4) Disqualified Person.—For purposes of this subsection—

(A) In General.—The term 'disqualified person' means any person if—

(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

"(B) Treatment of Family Members.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as owning deemed-owned shares. If not otherwise treated as a disqualified person under subparagraph (A).

"(C) Deemed-Owned Shares.—

(i) In General.—An employee stock ownership plan, except to the extent provided in paragraphs (2) and (3) of section 318(a). If, with respect to an individual, the term 'member of the family' means any person if—

(ii) such person's share of deemed-owned shares of such corporation to the extent provided in paragraphs (2) and (3) of section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

"(4) Disqualified Person.—For purposes of this subsection—

(A) In General.—The term 'disqualified person' means any person if—

(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

"(B) Treatment of Family Members.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as owning deemed-owned shares. If not otherwise treated as a disqualified person under subparagraph (A).

"(C) Deemed-Owned Shares.—

(i) In General.—An employee stock ownership plan, except to the extent provided in paragraphs (2) and (3) of section 318(a). If, with respect to an individual, the term 'member of the family' means any person if—

(ii) such person's share of deemed-owned shares of such corporation to the extent provided in paragraphs (2) and (3) of section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

"(4) Disqualified Person.—For purposes of this subsection—

(A) In General.—The term 'disqualified person' means any person if—

(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

"(B) Treatment of Family Members.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as owning deemed-owned shares. If not otherwise treated as a disqualified person under subparagraph (A).

"(C) Deemed-Owned Shares.—

(i) In General.—An employee stock ownership plan, except to the extent provided in paragraphs (2) and (3) of section 318(a). If, with respect to an individual, the term 'member of the family' means any person if—

(ii) such person's share of deemed-owned shares of such corporation to the extent provided in paragraphs (2) and (3) of section 318(a)(2)(B)(i), an individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.
(A) PROHIBITED ALLOCATIONS.—The amount involved with respect to any tax imposed by reason of subsection (a)(3) is the amount allocated to the account of any person in violation of section 409(p)(1).

(2) DETERMINATION.—The amount involved with respect to any tax imposed by reason of subsection (a)(4) is the value of the shares on which the synthetic equity is based.

(C) SPECIAL RULE DURING FIRST NON-ALLOCATION YEAR.—For purposes of subparagraph (A), the amount involved for the first non-allocation year of any employee stock ownership plan shall be determined by taking into account the total value of all the deemed-owned shares of all disqualified persons with respect to such plan.

(D) STATUTORY LIMITATIONS.—The statutory period for the assessment of any tax imposed by this section by reason of paragraph (3) or (4) of subsection (a) shall not expire before the date which is 3 years from the later of—

(i) the allocation of ownership referred to in such paragraph giving rise to such tax, or

(ii) the date on which the Secretary is notified of such allocation or ownership.

(3) Exclusion of Certain Plans.—In the case of any—

(A) employee stock ownership plan established after July 1, 2000, or

(B) employee stock ownership plan established on or before such date if employer securities held by the plan consist of stock in a corporation with which the plan is affiliated on such date in accordance with regulations prescribed by the Secretary.

(4) Two-Year Disqualification Period.—For purposes of this subsection, all multiemployer plans of which an employer is a part provide that if—

(i) a distribution described in clause (ii) in excess of $1,000 is made, and

(ii) the distributee does not make an election under subparagraph (A) and does not elect to receive the distribution directly, the plan administrator shall make such transfer to an individual retirement account or annuity of a designated trustee or issuer and shall notify the distributee in writing (either separately or as part of the notice under paragraph (5)) that the distribution may be transferred without cost or penalty to another individual account or annuity.

(E) ELIGIBLE PLAN.—For purposes of clause (ii), any eligible rollover plan means a plan which provides that any forfeitable accrued benefit for which the present value (as determined under section 411(a)(11)) does not exceed $5,000 shall be immediately distributed to the participant.

(F) CONFORMING AMENDMENTS.—

(a) The heading of section 401(a)(31) is amended by inserting “OPTIONAL DIRECT” and inserting “DIRECT”.

(b) Section 401(a)(31)(C), as redesignated by paragraph (1), is amended by striking “Subparagraph (A) and inserting “Subparagraphs (A) and (B)’.

(c) NOTICE REQUIREMENT.—Section 402(f)(1) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D), and by striking paragraph (E) and inserting in lieu thereof the following new paragraph:

“(E) if applicable, the provision requiring a direct trustee-to-trustee transfer of a distribution under section 401(a)(31)(B) unless the recipient elects otherwise.”.

(d) FIDUCIARY RULES.—Section 401(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by inserting at the end the following new paragraph:

“(3) In the case of a pension plan which makes a transfer to an individual retirement account or an annuity created by the plan administrator to a distributee under section 401(a)(31)(B) of the Internal Revenue Code of 1986, the participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account or annuity upon the earlier of—

(A) a rollover of all or a portion of the amount involved with respect to any individual retirement account or annuity; or

(B) one year after the transfer is made.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after December 31, 2001.

(f) NOTICE REQUIREMENTS FOR PLAN AMENDMENTS HAVING THE EFFECT OF SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.

SEC. 521. NOTICE REQUIRED FOR PENSION PLAN AMENDMENTS HAVING THE EFFECT OF SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.

SEC. 522. NOTICE REQUIREMENTS FOR PLAN AMENDMENTS SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.

(1) IN GENERAL.—If the sponsor of an applicable pension plan adopts an amendment which has the effect of significantly reducing the rate of future benefit accrual of 1 or more participants, the plan administrator shall, not later than the 45th day before the effective date of the amendment, provide written notice to each applicable individual and to each employee organization representing applicable individuals which—

(A) sets forth a summary of the plan amendment and the effective date of the amendment,

(B) includes a statement that the plan amendment is expected to significantly reduce the rate of future benefit accrual,

(C) includes a description of the classes of employees reasonably expected to be affected by the reduction in the rate of future benefit accrual,

(D) sets forth examples illustrating how the plan will change benefits for such classes of employees,

(E) if paragraph (2) applies to the plan amendment, includes a notice that the plan administrator will provide a benefit estimation kit to each applicable individual no later than the date required under paragraph (2)(A) and

(F) includes a notice of each applicable individual's right under Federal law to receive, and of the procedures for requesting, an annual benefit statement.

(2) REQUIREMENT TO PROVIDE BENEFIT ESTIMATION KIT.—

(A) IN GENERAL.—If a plan amendment results in the significant restructuring of the plan, the plan.
plan benefit formula (as determined under regulations prescribed by the Secretary), the plan administrator shall, not later than the 15th day before the effective date of the amendment, provide a benefit estimation tool kit to each applicable individual. If such plan amendment occurs within 12 months of an event described in section 410(b)(6)(C), the plan administrator shall in no event be required to provide the benefit estimation tool kit to applicable individuals affected by the event before the date which is 12 months after the event.

The benefit estimation tool kit described in this subparagraph shall include the following information:

(B) BENEFIT ESTIMATION TOOL KIT.—The benefit estimation tool kit described in this subparagraph shall include the following information:

(1) Sufficient information to enable an applicable individual to estimate the individual’s projected benefits under the terms of the plan in effect both before and after the adoption of the amendment.

(ii) The formulas and actuarial assumptions necessary to estimate under both such plans the present value of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) is in-

(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

(b) AMENDMENT OF ERISA.—Section 204(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h)) is amended to read as follows:

(iii) The interest rate used to compute a person designated, in writing, by the person to which it would otherwise be provided.

(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

The plan administrator shall in no event be re-

The benefit estimation tool kit described in subsection (e)(1)(D) and section 204(h)(2)(B) of the Em-

If such failure is within the control of the plan administrator, the plan administrator shall, not later than the 45th day before the effective date of the amendment, provide written notice to each applicable individual (and to each employee organization representing applicable individuals) which—

(iv) each participant in the plan, and

5. For purposes of subparagraph (A), there is a failure to exercise due diligence in meeting the requirements of this subsection with respect to any plan amendment, the provisions of the applicable individual plan shall be applied as if such plan amendment entitled all applicable indi-

(B) The benefit estimation tool kit described in this subparagraph shall include the following information:

(1) Sufficient information to enable an applicable individual to estimate the individual’s projected benefits under the terms of the plan in effect both before and after the adoption of the amendment.

(ii) The formulas and actuarial assumptions necessary to estimate under both such plans the present value of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) is in-

(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

(ii) the benefits under the plan with regard to such amendment,

(3) Notice to Designee.—Any notice under paragraph (1) or (2) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

(5) In the case of any failure to exercise due diligence in meeting the requirements of this subsection, if such failure is within the control of the plan sponsor and is—

(ii) a failure to provide most of the individual accounts most of the information as to which is determined under regulations prescribed by the Secretary of the Treasury.

(6) For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

(1) Notice to Designee.—Any notice under paragraph (1) or (2) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

(3) Notice to Designee.—Any notice under paragraph (1) or (2) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

(ii) a failure to provide most of the individual accounts most of the information as to which is determined under regulations prescribed by the Secretary of the Treasury.

(5) In the case of any failure to exercise due diligence in meeting the requirements of this subsection, if such failure is within the control of the plan sponsor and is—
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SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.

(a) IN GENERAL.—Paragraph (9) of section 412(c) (relating to annual valuation) is amended to provide that an election made by an amended plan by the employer or a plan under section 411(d)(6)(B)(i) of the Internal Revenue Code of 1986 and section 420(c)(12)(A) of the Employee Retirement Income Security Act of 1974.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DE-兮

(a) IN GENERAL.—Section 404(k)(2)(A) (de-兮

(b) EFFECTIVE DATE.—The amendment made by section 602 shall apply to plan years beginning after December 31, 2001.

SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CERTAIN HIGHLY COMPENSATED EMPLOYER-PROVIDED RETIREMENT SUBSIDIES.

(a) IN GENERAL.—Paragraph (4) of section 112(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the requirements in section 410(b)(6-6g) to provide that employees of a non-profit organization described in section 403(b)(1)(A)(i) of the Internal Revenue Code of 1986 and section 411(d)(6)(A) of the Employee Retirement Income Security Act of 1974.

(b) EFFECTIVE DATE.—The modification required by subsection (a) shall apply as of the date set forth in section 1240(b) of the Small Business Job Protection Act of 1996.

SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-PROVIDED RETIREMENT ADVICE.

(a) IN GENERAL.—Subsection (a) of section 132 (relating to exclusion of employer (and the employer's spouse) in a business partnership (including partners in an S or C corporation); and by inserting after subsection (l) the following:

(ii) QUALIFIED RETIREMENT PLANNING SERVICES DEFINED.—Section 132 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (i) the following:

(iii) QUALIFIED RETIREMENT PLANNING SERVICES.—For purposes of this section, the term ‘qualified retirement planning services’ means any retirement planning advice or information provided to an employee and his spouse by an employer maintaining a qualified employer plan.

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

SEC. 606. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIRE-兮

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

SEC. 607. MODIFICATION OF TIMING OF PLAN VALUATIONS.

(a) IN GENERAL.—Paragraph (9) of section 412(c) (relating to annual valuation) is amended to provide that

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2001.
(B) meets the minimum coverage requirements of section 410 of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;
(C) does not provide any payments to anyone except the employer (and the employer’s spouse) or the partners (and their spouses);
(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and
(E) does not cover a business that leases employees.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATES.—The provisions of this section shall take effect on January 1, 2002.

SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.
The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—

(a) increasing the awareness and knowledge of small employers concerning the availability and benefits of the program;
(b) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;
(c) extending the duration of the self-correction period under the Administrative Policy Regarding Self-Correction for significant compliance failures;
(d) expanding the availability to correct insignificant compliance failures under the Administrative Policy Regarding Self-Correction during audit; and
(e) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 608. REPEAL OF THE MULTIPLE USE TEST.
(a) IN GENERAL.—Paragraph (9) of section 401(m) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(m)) is amended by striking ''(G)'' and inserting ''(H)''.

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

SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.
(a) NONDISCRIMINATION.—
   (1) IN GENERAL.—The Secretary of the Treasury shall—
   (A) on or before December 31, 2001, modify the existing regulations issued under section 410 of the Internal Revenue Code of 1986 to provide that the description of a participant’s rights, including the consequences of failing to defer such receipt, shall include the consequences of failing to defer such receipt.
   (B) conforming amendments; and
   (C) on or before December 31, 2001, modify the existing regulations issued under section 410 of the Internal Revenue Code of 1986 to provide that the description of a participant’s rights, including the consequences of failing to defer such receipt, shall include the consequences of failing to defer such receipt.

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

   (c) DISCLOSURE OF OPTIONAL FORMS OF BENEFITS.—
   (1) IN GENERAL.—If—
       (A) a plan provides optional forms of benefits, then the plan shall include the information described in clause (ii).
       (B) the present values of such forms of benefits are not actuarially equivalent as of the anniversary starting date, then each written explanation required to be provided under subparagraph (A) shall include the information described in clause (ii).

SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF MORATORIUM ON APPLI CATION OF CERTAIN NON DISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.
(a) IN GENERAL.—Paragraph (9) of section 401(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(5)) is amended by striking ''(I)'' and inserting ''(J)''.

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

SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.
(a) EXPANSION OF PERIOD.—

   (1) AMENDMENT OF INTERNAL REVENUE CODE.—
   (a) IN GENERAL.—Subparagraph (A) of section 417(a)(6) is amended by striking ''90-day'' and inserting ''180-day''.
   (b) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 to substitute ''180 days'' for ''90 days'' each place it appears in Treasury Regulations sections 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-1(b).

   (2) AMENDMENT OF ERISA.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking ''90-day'' and inserting ''180-day''.

   (3) EFFECTIVE DATE.—The amendments made by paragraphs (1)(A) and (2) and the modifications required by paragraph (1)(B) shall apply to years beginning after December 31, 2001.

   (b) CONSENT REGULATION INAPPLICABLE TO CERTAIN DISTRIBUTIONS.
   (1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 to provide that the description of a participant’s rights, including the consequences of failing to defer such receipt, shall include the consequences of failing to defer such receipt.
   (2) EFFECTIVE DATE.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2001.

   (c) DISCLOSURE OF OPTIONAL FORMS OF BENEFITS.—
   (1) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(a)(3) (relating to a plan to provide written explanation) is amended by adding at the end the following:
   (i) A plan provides optional forms of benefits, and
   (ii) The present values of such forms of benefits are not actuarially equivalent as of the anniversary starting date, then each written explanation required to be provided under subparagraph (A) shall include the information described in clause (ii).

   (2) AMENDMENT OF ERISA.—Section 205(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)) is amended by adding at the end the following:
   (i) A plan provides optional forms of benefits, and
   (ii) The present values of such forms of benefits are not actuarially equivalent as of the anniversary starting date, then each written explanation required to be provided under subparagraph (A) shall include the information described in clause (ii).
to allow the participant to understand the different investment options, the present values of benefits, other information furnished, and the forms of benefits provided, and the effect the participant's election as to the form of benefit will have on the value of the benefits available under the plan. Any such information furnished shall be provided in a manner calculated to be reasonably understood by the average plan participant.

(3) Effective Date.—The amendment made by this subsection shall apply to years beginning after December 31, 2001.

SEC. 612. ANNUAL REPORT DISSEMINATION.

(a) In GENERAL.—Section 104(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by striking “shall furnish” and inserting “shall make available for examination (and, upon request, shall furnish)”.

(b) Effective Date.—The amendment made by this section shall apply to reports for years beginning after December 31, 2000.

SEC. 613. TECHNICAL CORRECTIONS TO SAVER ACT.

(a) In GENERAL.—Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking “2001 and 2005 on or after September 1 of each year involved” and inserting “1996, 1997, 2000, 2005, and the month of September of each year involved”;

(2) in subsection (b), by adding at the end the following new sentence: “To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with the American Savings Education Council.”;

(3) in subsection (e)(3), by inserting “Committee on Health, Education, Labor, and Pensions” in subparagraph (D) and inserting “National Retirement Plan” in clause (ii);

(b) Effective Date.—The amendment made by this section shall apply to reports for years beginning after December 31, 2000.

TITLE VII—OTHER ERISA PROVISIONS

SEC. 701. MISSING PARTICIPANTS.

(a) In GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

(“c”) MULTIPLE EMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for plan participants covered by this title that terminate under section 404A.

(“d”) PLANS NOT OTHERWISE SUBJECT TO TITLE.

(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant’s benefits to the corporation upon termination of the plan.

(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

“(A) to the corporation, or

“(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) specified in subsection (c)(3).

(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

“A) a plan is a pension plan (within the meaning of section 3(2)) to which the provisions of this section do not apply (without regard to this subsection), and

“(ii) which is not a plan described in paragraphs (2) or (4) of section 4021(b), and

“(B) by striking the end of clause (ii) and inserting at the end of clause (ii) the following: “(ii) which is not a plan covered by the act described in paragraph (4)(B)(ii) and (4)(B)(iii), and

“(C) by inserting at the end of paragraph (4) the following:

“(4) Plan not otherwise subject to title.—

“(A) The Secretary of the Treasury is required thereunder to consult and cooperate with Government entities to promote long term financial security in retirement through savings and with which the Secretary is required thereunder to consult and cooperate and shall not be Federal, State, or local government, or the U.S. Savings and Loan Insurance Foundation;

“(B) in subsection (f)(1)(C), by inserting “,” in consultation with the congressional leaders specified in subsection (e)(2),” after “report”;

“(C) In subsection (g), by inserting in paragraph (1)(C), by inserting “in consultation with the congressional leaders specified in subsection (e)(2)’’ after “paragraph;”;

“(D) In subsection (f)(3)(B), by striking “January 31, 1998” in subparagraph (B) and inserting “May 1, 2001, May 1, 2005, and May 1, 2009, for each of the subsequent summits, respectively;

“(E) in subsection (f)(1)(C), by inserting “, no later than 90 days prior to the date of the commencement of the National Summit, after “comment” in paragraph (1)(C);

“(C) paragraph (1)(B), by inserting “,” in consultation with the congressional leaders specified in subsection (e)(2),” after “report”;

“(D) in subsection (b), by striking “beginning on or after October 1, 1997” in paragraph (1) and inserting “2001, 2005, and 2009”;

“(E) in subsection (b), by striking “each of the following new paragraph:

“(3) EXCEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit pursuant to this paragraph. Such authority includes—

“(A) the extent of use of such current provisions, including—

“(a) the extent to which such provisions under-
(a) New Plans.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new subparagraph:

"(5)(A) For purposes of this paragraph, the term ‘small employer’ means—

(1) an employer that has 25 or fewer employees on the first day of the plan year;

(2) a plan maintained by a small employer as defined in subparagraph (F) if the number of participants in the plan as of the first day of the plan year, or any later determination date, does not exceed 50 multiplied by the number of years from the later of the effective date or the adoption date of such plan to the beginning of the plan year for which such determination is being made;

(3) a plan established after December 31, 2001, and maintained by a small employer as defined in subparagraph (F) if the number of participants in the plan does not exceed 50 multiplied by the number of years from the later of the effective date or the adoption date of such plan to the beginning of the plan year for which such determination is being made.

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new paragraph:

"(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor’s controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies and the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.

(ii) the term ‘applicable percentage’ means—

(1) the product of—

(A) 20 percent, for the first plan year;

(B) 40 percent, for the second plan year;

(C) 60 percent, for the third plan year;

(D) 80 percent, for the fourth plan year;

(E) 100 percent, for the fifth plan year.

For purposes of this clause, the term ‘applicable percentage’ means—

(1) 0 percent, for the first plan year.

(2) 20 percent, for the second plan year.

(3) 40 percent, for the third plan year.

(4) 60 percent, for the fourth plan year.

(5) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.

(b) SMALL PLANS.—Subparagraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 702(a), is amended—

(1) by striking the words ‘‘(2)]]‘’ after subparagraph (E) and inserting ‘‘as provided in subparagraph (G) the terms ‘small employer’ means an employer having 25 or fewer employees on the first day of the plan year or, if the plan was in existence before the effective date of this section, an employer having 25 or fewer employees on the first day of the plan year as of the effective date of this section.’’;

(2) in subparagraph (F), by striking the period at the end and inserting ‘‘as provided in subparagraph (G) the terms ‘small employer’ means an employer that has 25 or fewer employees on the first day of the plan year;’’.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans established before December 31, 2001 for the plan year beginning after December 31, 2001.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plans established after December 31, 2001 for the plan year beginning after December 31, 2001.
For purposes of paragraph (3), the constructive owner of section 156(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 156(e)(3)(C)).

SEC. 706. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation:

(1) in the case of an employee who returns to work for a former employer after commencement of payment of benefits under the plan shall

(A) be made during the first calendar month or payroll period in which the plan withholds payments, and

(B) if a reduced rate of future benefit accruals will apply to the returning employee (as of the first date of participation in the plan by the employee after returning to work), include a statement that the rate of reduced benefit will apply.

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1054(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2001.

TITLE VIII—PLAN AMENDMENTS

SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2) and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment plan or contract amendment which is—

(A) pursuant to any amendment made by this Act, or pursuant to any regulation issued under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2005.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting “2007” for “2005”.

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan); and

(ii) ending on the last day of the period described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

Mr. BAUCUS. Mr. President, I am very pleased to be joining my chairmen, Senator GRASSLEY, to introduce this bill today. I also want to express my particular appreciation to Senator BOB GRAHAM and Senator JEFFORDS, without whose tireless work on pension issues this bill would not have been possible.

We all know that our nation is facing a demographic shift of tremendous proportions in the coming decades. There are over 35 million people over the age of 65 today. By 2050, the number of people aged 65 and older is estimated to rise above 81 million.

Yet we have watched the oncoming wave of retirements without adequately preparing for them, either as a nation, or as individuals.

About three in every four workers say they have plans to begin saving for retirement outside the Social Security system. But the amounts accumulated by workers as a whole are unimpressive. Most have accumulated less than $50,000 in their retirement accounts. One-half of 401(k) accounts have balances of less than $10,000. Now some of these small amounts, not surprisingly, belong to younger workers who have more time for those assets to grow. But only one-fourth of those aged 35 and older have saved more than $100,000.

Americans can already expect to live about a quarter of their lives in retirement. As advances in medicine conquer more and more life threatening diseases such as cancer and stroke, more of us will live to see our second century—spending a full one-third of our lives in retirement. Every dollar we save will need to be stretched further as we live longer. Our ability and willingness to save now will define whether those retirement years are spent in comfort or poverty.

The American people have many wonderful qualities. But, these days, unfortunately, thrift isn’t one of them.

During the last twenty years, personal savings rates have consistently declined, from a peak of just under 11 percent of GDP in the 1970’s and 1980’s to today’s abysmal numbers. Personal saving as a percentage of disposable income have been in negative territory since last July, and the preliminary estimate for February is a negative 1.3 percent, the same as in January.

What does this matter? A low savings rate means that people aren’t putting their own money away for retirement. That makes them more dependent on Social Security.

Sixteen percent of today’s retirees rely exclusively on Social Security benefits for their retirement income, and two-thirds of all retirees rely on Social Security as one-third of their retirement income. Yet Social Security only replaces an average of 40 percent of a worker’s income, because the program was never designed to be a

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Let me discuss each in turn.

First, the incentives for small businesses. Unlike larger companies, most small businesses do not provide pension plans. While three out of every four workers at large companies are participating in some form of pension plan, only one out of every three employees of small businesses have pensions. This leaves over 30 million workers without a pension plan.

It’s not that small businesses don’t want to provide pension plans. They simply can’t afford to. In a recent survey of small employers by the Employee Benefit Research Institute, 65 percent of all small business owners said tax credits for start-up costs would be strong incentives for starting retirement plans. They said tax credits are second only to an increase in business profits as a motivation to small employers to offer a new plan to their employees.

The Baucus bill provides this motivation by creating two new tax credits:

The first is a tax credit of up to $500 to help defray the administrative costs of starting a new plan.

The second is a tax credit to help employers contribute to a new plan on behalf of their lower paid employees. In effect, this is a match of amounts employers in small firms put into new retirement plans for their employees, up to a limit of 3% of the salaries of those workers.

Taken together, these new incentives will make it easier for small businesses to reach out to their employees and provide them with a pension.

In addition, the bill creates a new tax credit that’s aimed primarily at workers who do not have a pension plan available to them, to encourage them to save for their retirement.

Only one-third of families with incomes under $25,000 are saving for retirement either through a pension plan or in an IRA. This compares with 85 percent of families with incomes over $50,000 who are saving for retirement.

We clearly need to provide an incentive for those families who aren’t saving right now, and the individual savings credit included in the Grassley-Baucus bill will provide that incentive. Households with a joint income of $30,000 is eligible for a 50% tax credit for the amount that they save each year, for savings of up to $2000. People with higher incomes get a smaller match, up to a joint income of $50,000.

According to the Joint Tax Committee, over 8 million families will be eligible for the individual savings credit. This will provide a strong incentive for these families to begin setting aside money to save for their retirement.

I understand pension incentives are not currently part of the President’s tax plan. But I strongly believe this period of surpluses gives us a unique opportunity to help millions of individual Americans save for the future—an opportunity that we shouldn’t pass up. Enacting the Grassley-Baucus bill will also help our economy grow by reducing the cost of capital, providing a long-term stimulus to economic growth.

This bill will help those who are already thrifty and need the government to loosen limits on saving. But it will also help the many people who have been left behind. Good people, who are working hard to make ends meet, but having trouble also saving for a rainy day.

This bill reaches out to all of them. It is a bipartisan effort to give every working person in this country a real stake in the American Dream.

I urge my colleagues to join us as co-sponsors of the Grassley-Baucus to introduce the Retirement Security and Savings Act of 2001. I am honored to be here today, in a bipartisan group, and especially with my colleague Senator GRASSLEY, who has put a tremendous effort into crafting many parts of this bill. He and I recognize that for our nation to solve what will be one of this generation’s greatest challenges, building retirement security for today’s workers, we need to move in a common sense, bipartisan fashion.

Many of the original cosponsors have dedicated their years in the Senate to crafting key sections of this legislation. Senator GRASSLEY’s efforts have expanded fairness for women and families, and highlighted the benefits of retirement education. Senator BAUCUS has also been a prime contributor to this legislation, fostering the proposals to help small pension plans, to ease the administrative burdens on America’s small businesses.

We have come here today, from both sides of the aisle, to ensure that future generations have a strong and viable retirement security system.

Retirement today is a much different prospect than it was a generation ago. Retirement is expected to be longer. Their health care needs are different and they are much more likely to need long-term care.

Planning for retirement has also changed. Thirty years ago retirement planning consisted of picking an employer with a good pension plan and sticking with that company for 30 years. Traditional pensions, with their clockwork monthly checks in return for a defined term of service, are becoming nostalgic memories. Increasingly, employers are turning to defined contribution plans—401(k)s and the like.

For example, twenty-five years ago nearly 31 million American workers were covered by a pension plan. Of
those, 87 percent had a defined benefit plan, according to the Department of Labor. Today, less than one-half of working Americans have a defined benefit plan, while 54 percent are covered by a defined contribution plan.

An employee with a 401(k) account can count on getting only one thing each month—a statement tracking account investments that rise and fall with financial markets. The burden of ensuring that there are sufficient assets in their 401(k) plans falls upon them.

And these are the lucky workers. Many employers—small businesses in particular—do not offer any kind of employer-sponsored retirement plan. Workers at these businesses are left to fend for themselves.

Records from the Social Security Administration illustrate the importance of each component of retirement income. 38 percent of retirees’ income came from Social Security, 19 percent from employer-sponsored savings plans or pensions, and 19 percent from savings. The rest was unidentified income or earnings from work.

Clearly, Social Security alone is not sufficient basis for a solid retirement plan. Adequate retirement security these days involves planning and coordinating three principal sources of income: Social Security, employer-based pensions and personal savings.

Pensions and personal savings will make up an ever-increasing part of retirement security. Today, if a worker retires with no savings and no pension, nearly 40 percent of his/her retirement income is lost. Even as retirees are becoming more heavily reliant on pensions, statistics show that 45 million working Americans are still not covered by any type of retirement plan.

There are a number of reasons why fewer and fewer working Americans are earning retirement benefits. First, job tenure has fallen. Today’s workers no longer dedicate their entire working life to one company. Now, the average worker will have had 7 employers in a 40-year work career. The mobility of working Americans, and the necessity of businesses to restructure their workforce, can create tremendous obstacles in ever being able to fully vest, and obtain retirement benefits.

Second, small businesses, the most dynamic part of our economy, are the least able to offer their workers retirement benefits. Studies indicate that small businesses are responsible for a large portion of the country’s job growth, and that this trend will accelerate in the future.

Third, our economy has shifted away from manufacturing jobs, which tend to offer pensions, to service and retail jobs, which tend to have shorter job tenure, more part-time workers, and less likelihood of providing pension and retirement benefits.

And finally, there are fewer union workers. Collective bargaining agreements are the most likely to contain retirement benefits. There are fewer union workers than 20 years ago, and the number is still declining. Therefore, less people will have important lifetime retirement security.

It is imperative that Congress take action to improve the private side of retirement security and encourage personal savings. Our bill, the Retirement Security and Savings Act, will help hard-working Americans build personal retirement savings through 401(k)s and IRAs.

To achieve this goal, we focused on six areas: simplification, portability, expanded coverage for small business, pension security and enforcement, women’s equity issues, and expanding retirement planning and education opportunities.

This legislation benefits both employers and workers. Employers get simpler pension systems with less administrative burden, and more loyal employees. And workers build secure retirement and watch their savings accumulate over years of work.

A large section of this legislation deals with expanded coverage for small businesses. It’s such an important component of this bill because small businesses have the greatest difficulty achieving retirement security.

The problem: statistics indicate that only a small percentage of workers in firms of less than 100 employees have access to a retirement plan. We take a step forward in eliminating one of the first hurdles that a small business faces when it establishes a pension plan. On one hand, the federal government encourages these businesses to establish pension plans. Yet on the other hand, it turns around and charges the small business, at times, up to one thousand dollars to register their plan with the Internal Revenue Service.

The solution: our bill eliminates this fee for small businesses. We need to encourage small businesses to start plans, not discourage them with high registration fees.

This legislation also addresses the inadequacy of retirement security for women and families. Generally speaking, women live longer than men, and therefore, need greater savings for retirement. Yet our pension and retirement laws do not reflect this. Women are more mobile than men, moving in and out of the workforce due to family responsibilities; thus, they have less of a chance to become vested. Our legislation offers a solution—shrinking the five-year vesting cycle to a three-year cycle.

As I mentioned earlier, the current U.S. worker will have seven different employers over their lifetime. We have the possibility of creating a generation of American workers who will retire with many small accounts—creating a complex maze of statements and features, different for each account. This is a problem—pensions should be portable, and not a quarter million dollars to retire.

Unfortunately, our tax laws contain barriers to retirement-account portability and so the major benefit of defined-contribution plans are often rendered unusable. Workers changing jobs are often given their savings back in a lump sum that doesn’t always make it back into an Individual Retirement Account or their new employer’s 401(k). The result is that retirement savings get spent before retirement.

Our bill provides a solution to this problem. It allows employees to roll one retirement account into another as they move from job to job so that when they retire, they will have one retirement account. It’s easier to monitor, and these complicated to keep track of, and builds a more secure retirement for the worker.

Portability is important, but we must also reduce the red tape. The main obstacle that companies face in establishing retirement programs is the administrative burden. For example: for small plans, it costs $228 per person per year just to comply with all the forms, tests and regulations.

We have a common sense remedy to one of the most vexing problems in pension administration: figuring out how much money to contribute to the company’s plan. It’s a complex formula of facts, statistics and assumptions. We want to be able to say to plans that have no problem with underfunding: to help make these calculations, you can use the prior year’s data to help make the proper contribution. You don’t have to re-sort through the numbers each and every year. Companies will be able to calculate, and then budget accordingly—and not worry about figures and rates out of their control are released by outside sources.

I have said time and time again that Americans are not saving. But those who are oftentimes hit limits on the amounts they can save. The problem is that most of these limits were established more than 20 years ago. Currently, for example, in a 401(k) plan the IRS limits the amount an employee can contribute to $10,500 a year. Our solution is to raise that limit to $15,000, along with raising many other limits that affect savings in order to build a more secure retirement for working Americans.

Building retirement security will also take some education. One of the principal reasons Americans do not prepare for retirement is that they don’t understand the benefits that are available to them.

One solution to this dilemma is regular and easily to read benefit statements from employers reminding workers early in their career of the importance of retirement savings. These statements would clarify what benefits
workers are accruing. With this information each American will more easily be able to determine the personal savings they need in order to build a sound retirement.

The new retirement paradigm requires Congress and individual workers to re dedicate themselves to the goal of retirement security. If we fail, the consequences will be harsh. That's particularly true in Florida, a popular retirement destination that could be devastated by an influx of seniors inadequately prepared for their retirement.

While Florida would be hit first, the nation as a whole will eventually feel the pain as the population ages faster than the workforce. To those who would suggest this is the distant future, remember how far high school seemed when you were in the sixth grade. Not too distant, a high school class thirty or forty years has given every opportunity for a secure and comfortable retirement.

I thank my colleagues who have worked so hard with me on this measure, and ask for the support of those in this Chamber on this important legislation.

Mr. HATCH. Mr. President, I rise today to express my support for the Retirement Security and Savings Act of 2001, and I am pleased to once again join my colleagues as an original co-sponsor of this important legislation. Enactment of this bill would encourage more businesses to offer pension plans to their employees by simplifying the complex and burdensome pension rules they face and would also make it easier for employees to save for their own retirement.

I want to congratulate my colleague, the chairman of the Finance Committee, Senator GRASSLEY, for his effective and persistent leadership on this issue. Senators GRASSLEY, BAUCUS, GRAHAM, and JEFFFOS, along with myself and several other Senators, have been working on enactment of a bipartisan pension simplification and retirement savings enhancement bill for several years now. These efforts led to the successful passage of a bipartisan package of such provisions in the Taxpayer Refund and Reform Act of 1999, which was unfortunately vetoed by President Clinton. We again came close to the goal line last year when the Finance Committee reported out a bill containing similar provisions. The ultimate objective of enactment has been elusive, however. Introduction of this legislation today is the first step of what I hope will be the successful completion to this long quest.

However, I have some serious concerns with some changes that were made to the bill being introduced today, compared with earlier versions. Specifically, important changes to the rules that affect small businesses have been left out. Let me explain.

Today’s pension laws are complicated and cumbersome and a deterrent to small businesses wanting to establish a retirement plan. In 1996, Congress began the job of pension simplification when it passed the Small Business Job Protection Act. This Act contained important changes to our pension laws, including two simplification provisions important to small and family-owned businesses—an exemption from costly nondiscrimination testing for 401(k) plans that meet certain safe harbors, such as providing a minimum level of benefits to non-highly paid employees, and the complex and duplicative family aggregation rules.

Unfortunately, these changes did not apply to the top-heavy rules. The top-heavy rules are additional testing and minimum benefit requirements aimed at ensuring that owner-annexed plans do not discriminate against lower-paid workers. Due to their design, top-heavy rules generally only affect business with fewer than 100 employees.

I recognize the need to protect lower-paid employees from discrimination in the design of retirement plans. However, the top-heavy rules can be duplicative and especially harmful in that they discourage small employers from establishing pension plans because they add to the cost and administrative burden of sponsoring a plan. In the end, rules like these that were designed to protect employees can end up harming them by leaving them with no employer-provided retirement coverage. Moreover, important nondiscrimination rules have been strengthened over the years since the enactment of the top-heavy rules, and are further strengthened by the provisions of the bill being introduced today. Therefore, eliminating these duplicative top-heavy rules would not leave workers unprotected. It would, however, remove a disincentive for small employers to sponsor a retirement plan.

H.R. 1102, the pension simplification bill that is before the House of Representatives and the Finance Committee last year with broad bipartisan support, as well as H.R. 10, this year’s version of the so-called Portman-Cardin bill recently introduced in the Senate, contain two important provisions that were left out of the bill being introduced today. These two omitted provisions would exempt safe harbor 401(k) plans from the top-heavy rules and remove the family aggregation requirement from the top-heavy rules.

First, the 401(k) safe harbor provides exactly what the top-heavy rules attempts to do—guarantee that non-highly paid workers get a minimum level of benefits and are not discriminated against. In return, employers can avoid the costly and onerous top-heavy testing. Congress provided the safe-harbors to encourage small employers to create new pension plans and provide more generous benefits to employees. However, because qualification for the safe harbors that exclude the top-heavy rules, the fear of costly testing can be a serious deterrent to businesses wishing to take advantage of the safe harbor, even if the plan satisfies the minimum benefit requirements. Thus, in order to provide certainty and encourage to small businesses, 401(k) plans that meet the safe harbor rules should also be exempt from top-heavy testing.

Second, as was noted by Congress in 1996, the family aggregation rules are complex and unnecessary in light of the numerous other provisions that protect against pension plans disproportionately favoring high-paid workers. Moreover, requiring the aggregation of family members when testing pension plans imposes undue restrictions on the ability of a family-owned business to provide adequate retirement benefits for all members of the family working for the business. Therefore, Congress should complete the task of easing this burden on family-owned businesses by removing the family aggregation requirement from the top-heavy rules.

On the whole I support the legislation we are introducing today. It would go a long way toward increasing the retirement security for millions of Americans. However, I am disappointed that these two provisions, along with several others, were dropped from the bill. These two provisions are particularly important tools in our efforts to expand employee retirement coverage by encouraging small businesses to establish pension plans. As pension reform legislation makes its way through the legislative process, I will work to try to restore these provisions so that small family-owned businesses will have more certainty and confidence and fewer unnecessary burdens and costs when establishing pension plans for their workers.

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

S. 743. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

Mr. REED. Mr. President, today I am introducing legislation along with my colleague Senator CLINTON, that establishes a Medical Education Trust Fund to support America’s 144 medical schools and 1,250 graduate medical education programs.

These institutions are national treasures, they are the very best in the world and deserve explicit and dedicated funding to guarantee that the
United States continues to lead the world in the quality of its medical education and its health care delivery system. The Medical Education Trust Fund Act, METFA, of 2001 recognizes the need to begin moving away from existing medical education payment policies. The primacy and immediate purpose of the legislation is to establish as Federal policy that medical education is a public good that all sectors of the health care system must support. This bill ensures that public and private insurers share the burden of financing medical education equitably. As such, METFA will be funded through three sources: a 1.5 percent assessment on health insurance premiums, Medicare, and Medicaid. The relative contributions from each of these sources is in proportion to the medical education costs attributable to their respective covered populations.

GME is increasingly becoming hostage to fights over larger questions about the solvency and design of the Medicare system. The very commission entrusted to protect the integrity of the Medicare program, MedPAC, itself has succumbed to political and ideological pressures by recommending that the GME program be removed from the Health Insurance Trust Fund and thrown into the appropriations process. I cannot stress strongly enough how important it is to reject this recommendation. To subject GME to the annual appropriations process does nothing more than to put a vital program in direct competition with many other important federal priorities in a budget that the Bush Administration is already severely constraining. We have seen this first hand in working through the 2002 budget, where the current Administration proposed to cut a large portion of the Pediatric GME program to fund other programs. Leaving this program unprotected, will incite the same type of parochial pressures by recommending that we change this policy, my legislation complements a competitive health market by providing tax-supported funding for the public services provided by teaching hospitals and medical schools.

The legislation we introduce today is only the beginning. It establishes the principle that, as a public good, medical education should be supported by a stable, dedicated, long-term source of funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following: alternative and additional sources of medical education financing; alternative methodologies for financing medical education; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the appropriate role of medical schools in graduate medical education; and the training of tomorrow’s physicians, are vitally important and must be protected in this time of intense economic competition in the health system.

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. 743
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Medical Education Trust Fund Act of 2001.”
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Medical Education Trust Fund.
Sec. 3. Amendments to medicare program.
Sec. 4. Amendments to medicaid program.
Sec. 5. Assessments on insured and self-insured health plans.
Sec. 6. Medical Education Advisory Commission.
Sec. 7. Demonstration projects.

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Medical Education Trust Fund Act of 2001 (42 U.S.C. 300 et seq.) is amended by adding after title XXI of such Act the following new title:

“TITLE XXII—MEDICAL EDUCATION TRUST FUND

‘TABLE OF CONTENTS OF TITLE XXII’

Sec. 2201. Establishment of Trust Fund.
Sec. 2202. Payments to medical schools.
Sec. 2203. Payments to teaching hospitals.

SEC. 2201. ESTABLISHMENT OF TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the ‘Trust Fund’), consisting of the following accounts:

(1) The Medical Schools Account.
(2) The Medicare Teaching Hospital Indirect Account.
(3) The Medicare Teaching Hospital Direct Account.
(4) The Non-Medicare Teaching Hospital Indirect Account.
(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under section 3001(b)(2) of title XXII of such Act, and proceeds from any sale or redemption of obligations held in such account.

(b) EXPENDITURES FROM TRUST FUND.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2202 and 2203.

(c) INVESTMENT.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) SALE OF OBLIGATIONS.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

(3) AVAILABILITY OF INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

(d) MONETARY GIFTS TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Gifts account to the Trust Fund. Such amounts shall be allocated and transferred to the accounts described in subsection (a) in the same proportion that the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

SEC. 2202. PAYMENTS TO MEDICAL SCHOOLS.

(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS FOR CERTAIN COSTS.

(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 2002 or any subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose...
specified in paragraph (3). The Secretary shall make payments to the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

**APPLICATION FOR PAYMENTS.—**For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

"(A) the medical school involved submits the application not later than the date specified by the Secretary; and

"(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in maintaining and developing the capacity and quality to provide quality educational programs in an increasingly competitive health care system.

"(b) AVAILABILITY OF TRUST FUND FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.—

"(1) TRUST FUND FOR PAYMENTS.—For making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1886(m), 1306, 2201(c)(3), and 2201(d), and section 4503 of the Internal Revenue Code of 1986, amounts for a fiscal year shall be available as follows:

"(A) In the case of fiscal year 2002, $200,000,000.

"(B) In the case of fiscal year 2003, $300,000,000.

"(C) In the case of fiscal year 2004, $400,000,000.

"(D) In the case of fiscal year 2005, $500,000,000.

"(E) In the case of fiscal year 2006, $600,000,000.

"(F) In the case of each subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year updated by the midpoint of such previous fiscal year by the estimated percentage change in the general health care inflation factor under section 2201(d) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under such subsection in the projected health care inflation factor.

"(2) AMOUNT OF PAYMENTS FOR MEDICAL SCHOOLS.—

"(A) In general.—Subject to the annual amount available under paragraph (1) for a fiscal year, the amount of payments required under subsection (a) to be made to a medical school that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to an amount determined by the Secretary in accordance with paragraph (B).

"(B) DEVELOPMENT OF FORMULA.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a)(3).

"(c) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term ‘medical school’ means a school of medicine (as defined in section 796 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

"(d) GENERAL HEALTH CARE INFLATION FACTOR.—The term ‘general health care inflation factor’ means the Consumer Price Index for Medical Services as determined by the Bureau of Labor Statistics.
(b) by adding at the end the following:

(7) LIMITATION.—The authority to make payments under this subsection (other than payments made under paragraphs (3)(D) and (6)) shall not apply with respect to—

(A) In general.—The authority to make payments under this subsection shall not apply to transfers to the Medical Education Trust Fund, the Secretary shall, for fiscal year 2002 and each subsequent fiscal year, transfer to the Medical Education Trust Fund established under title XXII an amount equal to the amount estimated by the Secretary under subparagraph (B).

(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any portion of section 163(f) with respect to graduate medical education: 

and (4) by adding at the end the following:

(m) Transfers to Medical Education Trust Fund.

(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

(A) TRANSFER.—

(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 2002 and each subsequent fiscal year, transfer to the Medical Education Trust Fund, the Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts involved of the nationwide total of the amounts involved of the Nationwide Total Direct Account of such Trust Fund.

(ii) ALLOCATION.—Of the amount transferred under subparagraph (A) for such fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under title XIX.

SECTION 4. AMENDMENTS TO MEDICARE PROGRAM.

(a) In general.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following:


‘‘Subsection (b) is amended by adding at the end the following:

(y) Definitions and special rules.

(1) IMPOSITION OF TAX.—There is hereby imposed—

(A) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

(B) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount received.

(B) LIABILITY FOR TAX.—

(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health insurance which provides the individual to receive any of the services described in a previous subparagraph.

(2) EXEMPTION OF CERTAIN POLICIES.—The term ‘taxable health insurance policy’ does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

(A) liabilities incurred under workers’ compensation laws,

(B) tort liability, and

(C) liabilities relating to ownership or use of property.

(5) advance payment of medical services.

(6) HOME AND COMMUNITY-BASED SERVICES DEFINED.—In section 1915(b)(1) and (2) of such title, the term ‘home and community-based services’ means services referred to in section 1905(a)(7), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that makes the individual to receive any of the services described in a previous subparagraph.

(c) Entitlement.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2001.

SEC. 5. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) General Rule.—Subtitle D of the Internal Revenue Code of 1986 (relative to miscellaneous excise taxes) is amended by adding after chapter 4 the following new chapter:

CHAPTER 37—HEALTH RELATED ASSESSMENTS

Subchapter A. Insured and self-insured health plans.

Subchapter B.—Insured and Self-Insured Health Plans.

‘‘Sec. 4501. Health insurance and health-related administrative services.

‘‘Sec. 4502. Self-insured health plans.

‘‘Sec. 4503. Transfer to accounts.

‘‘Sec. 4504. Definitions and special rules.

‘‘Sec. 4505. Health Insurance and Health-Related Administrative Services.

(A) Imposition of Tax.—There is hereby imposed—

(1) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

(2) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount received.

(B) Liability for Tax.—

(1) Health Insurance.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

(2) Health-Related Administrative Services.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

(c) Taxable Health Insurance Policy.—For purposes of this section—

(1) In General.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

(2) Exemption of Certain Policies.—The term ‘taxable health insurance policy’ does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

(A) liabilities incurred under workers’ compensation laws,

(B) tort liability, and

(C) liabilities relating to ownership or use of property.

(2) Credit insurance.

(3) other similar liabilities as the Secretary may specify by regulation.

(3) Special Rule Where Policy Provides Other Coverage.—In the case of any taxable health insurance policy, which amounts are payable other than for accident or health coverage, in determining the
amount of the tax imposed by subsection (a)(b) on any premium paid under such policy, thereby to be excluded the amount of the charge for the nonaccident or nonhealth coverage if—

(1) the charge for such nonaccident or nonhealth coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

(2) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such policy shall be subject to tax under section 4501.

"(d) TREATMENT OF PREVIOUS HEALTH COVERAGE ARRANGEMENTS.—

"(1) In General.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be considered for purposes of section 4501 to be the policyholder under any such arrangement.

"(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if such arrangement—

"(i) for premiums received after September 30, 2001.

"(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements by the plan or on any amount received for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

"(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with accident or health coverage expenditures.

"SEC. 4503. TRANSFER TO ACCOUNTS.

"For fiscal year 2002 and each subsequent fiscal year, (i) no tax shall be imposed under section 4502 of any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(ii) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

"(C) in the case of—

(1) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

(2) a voluntary employees’ beneficiary association section under section 501(c)(9), or

(3) any other association plan, the association, committee, joint board of trustees, or other governing group of representatives of the parties who establish or maintain the plan.

"(c) APPLICABLE SELF-INSURED HEALTH PLANS.—

"(1) In General.—The accident or health coverage provided by an applicable self-insured health plan means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

"(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

"SEC. 4504. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subsection—

"(1) ACCIDENT OR HEALTH COVERAGE.—The term ‘accident or health coverage’ means any coverage which, if provided by an insurer, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

"(2) INSURANCE POLICY.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term ‘premium’ means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the policyholder under any arrangement described in subparagraph (B) for the provision of accident or health coverage.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received on or after September 30, 2001.
SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) Establishment.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the “Advisory Commission”).

(b) Duties.—

(1) In General.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 220 of the Social Security Act (as added by section 2);

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to maintain superior research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education;

(vi) policies designed to expand eligibility for graduate medical education payments to children’s hospitals that operate graduate medical education programs; and

(vii) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 2003, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services;

(D) not later than January 2005, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services;

(2) Entities described.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education and the Medicare Payment Advisory Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) Number and Appointment.—The membership of the Advisory Commission shall include 9 individuals who are appointed to the Advisory Commission from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary of Health and Human Services, and shall include individuals from each of the following categories:

(1) Physicians who are faculty members of medical schools.

(2) Officers or employees of teaching hospitals.

(3) Officers or employees of health plans.

(4) Deans of medical schools.

(5) Such other individuals as the Secretary determines to be appropriate.

(d) Terms.—

(1) In General.—Except as provided in paragraph (2), members of the Advisory Commission shall serve for the lesser of the life of the Advisory Commission or 3 years, but the term of each member of the Advisory Commission shall not be less than 1 year.

(2) Service beyond Term.—A member of the Advisory Commission may continue to serve after the expiration of the term of the member if the member requests to serve and the Secretary of Health and Human Services shall direct the member to serve as a member of the Advisory Commission.

(e) Vacancies.—If a member of the Advisory Commission does not serve the full term applicable under subsection (d), the individual appointed to fill such vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) Chair.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair of the Advisory Commission.

(g) Meetings.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services.

(h) Compensation and Reimbursement of Expenses.—Members of the Advisory Commission shall receive compensation for each day on which any member attends meetings of the Advisory Commission, as determined by the Secretary of Health and Human Services, and shall be entitled to travel expenses and subsistence expenses incurred by such member in connection with attendance at such meetings.

SEC. 7. DEMONSTRATION PROJECTS.

(a) Establishment.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under section 6(b)(1)(B).

(b) Funding.—

(1) In General.—For any fiscal year after 2000, amounts in the Medical Education Trust Fund under title XXII of the Social Security Act shall be available for use by the Secretary in the establishment and operation of demonstration projects described in subsection (a).

(2) Funds Available.—

(A) Limitation.—Not more than 1/3 of 1 percent of the Medical Education Trust Fund shall be available for the purposes of paragraph (1).

(B) Allocation.—Amounts under paragraph (1) shall be paid by the Secretary to any trust fund, including the Medicare trust funds, to ensure that a steady stream of funds is available to support training for medical education.

(c) Limitation.—Nothing in this section shall be construed to authorize any change in the payment methodology for teaching hospitals and medical schools established by the amendments made by this Act.

Distinguished Senator Reed, I rise today to ask my colleagues to join me in ensuring that we maintain a steady stream of funding for the crown jewels of our health care system, our Nation’s teaching hospitals. I deeply appreciate Senator BINGERT’s leadership on this issue and I am proud to join him and other colleagues as an original cosponsor of this important legislation. Teaching hospitals play a vital role in our Nation’s health care system, both in treatment and research, helping to make our system one of the finest in the world. New York City, for example, leads the world in the number and quality of academic health centers, teaching hospitals, and related medical institutions.

I have long supported academic health center and teaching hospitals, because their work is so essential to our communities. We rely on them to train physicians and nurses, care for the sickest of the sick and the poorest of the poor, and engage in research and clinical trials. Thanks to the research, for example, at Memorial Sloan-Kettering, cancer patients will suffer less while receiving chemotherapy because of a drug that was developed there. And a drug that allows balloon angioplasty to save lives was developed at SUNY Stony Brook.

As my predecessor and friend, Senator Daniel Patrick Moynihan, who I am so honored to be following in the footsteps of, put it so well a few years ago, “We are in the midst of a great era of discovery in the medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages in scientific discovery. And it is centered in New York City.’’

But our Nation’s teaching hospitals are at risk. Cuts to Medicare have lowered reimbursements for teaching hospitals and another reduction, which I will work with my colleagues to prevent, is scheduled to take place next year. Teaching hospitals have higher costs not only because of the training functions they perform, but also because they treat patients who require some of the most costly procedures and require longer hospital stays. In addition, the use of advanced technology and presence of experts in various fields also add to teaching hospitals’ expenses.

All of us, who rely on the expertise of our doctors, and have access to new technologies, as well as the state-of-the-art services academic medical centers and teaching hospitals offer, benefit from the creation of a trust fund to ensure a steady stream of funds dedicated for these purposes. Some states, including mine, have sought to address
these funding needs themselves. However, as Senator Moynihan also pointed out, New York State’s GME fund was created as a temporary solution until a Federal fund could be created.

I urge my colleagues in joining me with their support for this critical investment in our teaching hospitals so that they can continue to lead the world in training highly-qualified medical professionals, and generating the state-of-the-art research and treatment that enables our Nation’s health care system to flourish.

By Mrs. HUTCHISON (for herself, Mr. LIEBERMAN, and Mr. FEINGOLD):

S. 744. A bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce today a bill with Senators LIEBERMAN and FEINGOLD that would address a concern that has been raised by state legislators in Texas and across the country.

Last year Congress enacted the Full and Fair Political Activities Disclosure Act of 2000, Public Law 106–230, a law that imposed new IRS reporting requirements on political organizations claiming tax-exempt status under section 527 of the Internal Revenue Code. The purpose of this law was to uncover so-called “stealth PACs,” tax-exempt groups which, prior to the enactment of this law, did not have to disclose any contributions or expenditures and were free to influence elections in virtual anonymity.

While Public Law 106–230 was intended to target “stealth PACs,” it has had the unintended consequence of imposing burdensome and duplicative reporting requirements on state and local candidates who are not involved in any Federal election activities. In many states like Texas, State and local candidates already file detailed reports with their state election officials.

To correct this problem, I am introducing legislation that would exempt state and local candidates from the IRS reporting requirements of Public Law 106–230. This bill is the product of an agreement that was worked out among Senator LIEBERMAN, Senator FEINGOLD, Senator DODD, Senator MCCAIN, Senator MCCONNELL, and myself.

I originally intended to offer this legislation as an amendment to S. 27, the McCain-Feingold campaign finance bill. Unfortunately, since this particular legislation impacts the Internal Revenue Code, I was unable to offer it at that time without the possibility of invoking a blue slip from the Ways and Means Committee.

Last week I spoke with the chairman of the Ways and Means Committee about this issue, and he assured me that he would seek to address this issue in his committee. In this vein, I would like to ask the Senator from Iowa, the chairman of the Finance Committee, if he also will work with me to address this problem in the context of the tax bill this year.

Mr. GRASSLEY. Yes, I would be pleased to work with the Senator from Texas on this matter, and pledge my good faith to give serious consideration to including language that meets her concerns in an appropriate tax bill in the near future.

Mrs. HUTCHISON. I’d like to thank the distinguished chairman of the Finance Committee for his interest in this issue.

Mr. LIEBERMAN. Mr. President, I am pleased to cosponsor this bill, and I thank my colleague, the Senator from Texas, for drafting this legislation that achieves its purpose, but does not open any loopholes in the original section 527 reform law.

Last year, Congress passed the first significant campaign finance reform measure in a quarter of a century. The so-called section 527 reform bill dealt with a truly troubling development, one whereby organizations that received tax-exempt status by telling the IRS that they existed to influence elections denied the very same thing to the FEC. As a result, these self-proclaimed election organizations engaged in election activity without complying with any aspect of the election laws, influencing our elections without the American public having any idea who, or what, was behind them.

Our law put a stop to that, by requiring organizations claiming tax-exempt status under section 527 of the Internal Revenue Code to do three things: 1. give notice of their intent to claim that status; 2. disclose information about their large contributors and their big expenditures; and 3. file annual informational returns along the lines of those filed by virtually all other tax-exempt organizations.

During the nine months or so that the 527 reform law has been in effect, that law has blasted sunshine onto the previously shadowy operations of a multitude of election-related organizations. Through the filings mandated by that law, the American public has learned a great deal about who is financing many of these organizations and how these organizations are spending their money.

But the law has had another impact, and that is to impose new reporting requirements on a group of organizations that already fully disclose to the public all of the activities covered by the 527 reform law. This bill gives relief to those organizations. In particular it grants relief from the 527 reform law to two kinds of organizations that are involved exclusively in State and local elections and that already fully disclose their activities. I thank my colleague from Texas for working with me to ensure that we accomplish that goal without opening any holes in the 527 reform law that will allow undisclosed money to reenter our election system.

First, the bill provides new exemptions for State and local candidate committees. Under the reform law, committees of candidates for State or local office have to notify the IRS of their intent to claim section 527 status, and they have to file annual informational returns if they have over $25,000 in gross receipts. Since the reform law went into effect, we have become convinced that the burden these requirements impose on State and local candidate committees outweigh the public purpose served by requiring them to comply with these mandates.

In contrast to other types of political committees, State and local candidate committees often are not permanent organizations. They often crop up a few months before an election and then cease to exist shortly after the election. They are often staffed by volunteers and run on a shoe string budget. Any new paperwork requirement—regardless of how reasonable it may be in other contexts—can put a significant burden on these minimally staffed and often short-lived committees.

At the same time, State and local candidate committees do not pose the threats the 527 law intended to address. In contrast to other political committees, there is never any doubt as to who is running the candidate committee and as to whose agenda the candidate committee aims to promote. Just as importantly, State laws regulate and require disclosure from all candidate committees.

We therefore have concluded that even though we do not believe the 527 reform law’s mandates to be particularly burdensome in general, State and local candidate committees present a special case, one that warrants exempting them from the reform law’s requirements to file a notice of intent to claim section 527 status and to file an annual return even if the organization does not have taxable income. I note, though, that these organizations still will have to file and make public annual returns if they have taxable income.

The second group to which we are granting a lesser degree of relief is a very carefully defined group of so-called State and local PACs. In granting this relief, we have walked a very fine line. On one hand, we want to recognize the fact that every State requires disclosure from political committees involved in that State’s elections and that many State and local
PACs covered by the 527 reform law therefore are already disclosing the information the 527 law seeks to State agencies. On the disclosure requirements, I believe that there is a strong public interest in knowing how the federal tax-exemption under section 527 is being used by these organizations, and we most decided do not want to exempt from the law’s disclosure requirements any State or local PAC that does not otherwise publicly disclose all of its activities.

To exempt a State or local PAC merely because it claims that it is involved only in State elections and files information about some of its activities with a State agency would risk creating a massive loophole that could undermine the 527 reform law. That is because just as prior to the passage of the 527 law, groups were claiming that they were trying to influence elections for the purposes of the tax code, but not for the purposes of the election laws, a broad exemption for State or local PACs could lead some groups to claim that they are engaging exclusively in helping the IRS and outside groups to claim that they are influencing elections for the purposes of the State law’s disclosure requirements.

So, we have reached the following compromise. First, we are not exempting any of these organizations from the section 527(i) notice requirements. Unlike candidate committees, PACs generally are not transient, volunteer-staffed organizations, and it is not always clear to the public who is behind these groups. Moreover, because we are not completely exempting these groups from the law’s other disclosure requirements, the notice requirement will be critical in helping the IRS and outside groups monitor compliance with the law’s other mandates. In light of that, we believe the minimal effort required to file the 527(i) notice is worth the tremendous value of giving the public some basic information about these groups.

Second, we are granting an exemption from the section 527(j) contribution and expenditure reporting requirements to some of these organizations, but only if they can meet certain strict requirements. The group’s so-called exempt function activity must focus exclusively on State or local elections. The group must file with a State agency, and expenditure it would otherwise be spent on State elections and only when they already report publicly on all of the information the 527 law seeks.

Finally, the bill makes a small change to these State and local groups’ obligation to file an annual information return when they do not have taxable income. Under the current law, they would be required to file when they have $25,000 in annual receipts; the bill increases that trigger to $100,000. Like all other 527 organizations, though, they still will have to file such returns if they have taxable income.

I want to thank Senator HUTCHINSON for her efforts on this bill. I believe we have worked out a good compromise, one that grants relief where it is warranted, but does not in any way threaten to open up a loophole in the law. I thank her for that, and I yield the floor.

Mr. FEINGOLD. Mr. President, I am pleased to join Senators HUTCHINSON and LIEBERMAN in cosponsoring this bill.

Our enactment of the 527 disclosure legislation last year was an important step toward breaking the logjam on campaign finance reform. It showed that we could come together to pass commonsense reforms that give the public more information about and more confidence in the political process. Since that law went into effect, we have heard legitimate complaints from state and local candidates and PACs, which are in fact exempt from taxation under section 527 of the Internal Revenue Code, about the burden of complying with the notification and reporting requirements of the law.

Senator HUTCHINSON brought this issue to the fore by offering an amendment to the campaign finance bill that we passed on Monday. I very much appreciate her willingness to withdraw that amendment so we could work out the details together and avoid creating a blue-slip problem with the House that might delay the overall campaign finance bill.

The challenge was to address the legitimate concerns raised by state candidates and PACs without opening new loopholes in the law so soon after its enactment. Particularly as we stand poised to enact even more far-reaching reforms in the McCain-Feingold bill, it is extremely important that we not weaken existing law in a way that might be exploited by groups wanting to avoid the sunshine that the 527 disclosure law provided. I believe that the Senator from Texas and the Senator from Connecticut have successfully negotiated this difficult terrain. I am proud to support this bill, and I hope it will be quickly enacted.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. FEINGOLD, Mr. BINGAMAN, and Mr. DODD):

S. 745. A bill to amend the Child Nutrition Act of 1966 to promote better nutrition among school children participating in the school breakfast and lunch programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, I am today producing a simple, yet forceful, bill designed to address a growing problem among school children. I am tired of major soft drink companies trying to take school lunch money away from children.

It is one thing for the school bully to take lunch money from school kids, it is another for Coca-Cola or Pepsi to take it. In some areas, school scoreboards and school uniforms are now plastered with soda ads under exclusive contracts with vending machines all over the place.

According to a report issued by the Center for Science in the Public Interest, 20 years ago boys consumed more than twice as much milk as soda, and girls 20 percent more; now boys and girls consume twice as much soft drink as they do milk.

I had a huge battle with Coca-Cola in 1994 when they tried to derail my child nutrition bill—"The Better Nutrition and Health for Children Act" because I wanted schools to know they had the right to ban soda vending machines if they chose.

That 1994 controversy began when Coca-Cola sent out letters to school authorities around the country misrepresenting my bill. They were resorting to scare tactics instead of honest debate. The letter sent by Coca-Cola made numerous false allegations including that soft drinks are USDA-approved. That was not, and is still not true.

The controversy now is over exclusive contracts with soda manufacturers so they get to blanket schools with soda vending machines and signs advertising their products. Also, in some schools sodas are actually being given away to children during lunch.

For schools participating in the national school lunch program I want the vending machines turned off during lunch on all school campuses and I that is not hard to do. It is simple. During lunch, I do not want sodas sold to school children by the school. And the Secretary of Agriculture should carefully consider, based on sound nutritional science, whether to turn off the soda vending machines and stop soft drink sales before lunch.

You don’t have to be a scientist to know that eating habits learned in childhood should carefully consider, based on sound nutritional science, whether to turn off the soda vending machines and stop soft drink sales before lunch.

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children do not vote, children don’t hand out large sums of PAC money, children don’t hire expensive lobbyists. But I have always put the welfare of children ahead of corporate profits, and I always will.

Coca-Cola recently announced that they will encourage other soda manufacturers to stop the practice of negotiating exclusive soda contracts with schools. That does not solve the problem. The issue is not which company is selling the children what, but whether the sodas should be sold at all, before and during lunch. Doing away with exclusive contracts could just mean more soda vending machines in schools.

This is not the way for schools to raise money.

My bill would ban the sale of soda and “pure-sugar” candies such as cotton candy, gum balls, licorice, and the like, to school children in school during the lunch period and during breakfast. It would also prohibit the practice in some schools of giving away soda during lunch.

For the period after breakfast and before lunch, the bill would mandate that the Secretary of Agriculture take into account the nutritional health of children and design a rule based on “sound nutritional science” that could ban the sale (or donation) of sodas and similar high-sugar foods, throughout school property or on some portions of school property. The bill would prohibit the Secretary to ignore the current approach intact—which would allow such sales if the school wanted.

In this nutritional health analysis, the Secretary would have to consider what foods, such as milk or juices, are most likely to be displaced by the consumption of sodas before and during lunch. The Secretary would also have to weigh the low nutritional value of sodas as compared to soda substitutes such as juice or milk.

A report published in The Lancet concluded that for each glass of sugar-sweetened drink consumed by a child, their risk of becoming obese increased 1.6 times. It was also recently reported that soda consumption negatively impacts the ability of a child to meet their daily requirements for calcium, vitamin A, and magnesium. Variations in the amount of calcium consumed during childhood can result in decreased bone mass which may lead to a 50 percent greater risk of hip fracture in later years.

I recently heard from one of my constituents on this issue while Jenny Dorman is only in 6th grade, she has a great deal of wisdom for her age. Her letter gets right to the point on this important issue of how soda consumption impacts her health. I ask unanimous consent that her letter be included in the RECORD.

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

DEAR SENATOR LEAHY, I was getting ready for school when my mom told me to look at your article. I want to tell you that I’m with you 100 percent. I used to be a soda addict, and would drink nothing else. Last year in health class the teacher taught us what soda does to your bones. There is 2 percent of calcium in your bones, 1 percent in your teeth, the other 1 percent is in your blood. Soda robs your bones of calcium. If there isn’t enough calcium in your blood, your body goes to your bones, where lots of calcium is found. If the soda and your bone together, taking calcium, your bones will get really brittle and easy to break. When you’re old you can be very liable to have osteoporosis. Once I learned that, I stopped drinking soda altogether. Now I only drink water, milk, and once in a while juice. I’m in 6th grade now and I haven’t had soda for over a year! I haven’t had it in so long that even if I get a tiny bit of soda I get a sick feeling inside. Now I’m desperately trying to get the rest of my family off it by switching Sprite with water. Ha Ha!

JENNY DORMAN, Stockbridge School.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 746. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the federal recognition of the Native Hawaiian governing entity, and for other purposes; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce a bill with my friend and colleague, the senior Senator from Hawaii, Mr. INOUYE which would clarify the political relationship between Native Hawaiians and the United States. This measure would extend the federal policy of self-determination and self-governance to Hawai’i’s indigenous, native peoples, Native Hawaiians, thereby establishing parity in federal policies towards Native Hawaiians, Alaska Natives and American Indians.

The bill I introduce today is a modified version of legislation we introduced on January 22, 2001. This modified version improves upon our efforts to clarify the political relationship between Native Hawaiians and the United States. Federal policy towards Native Hawaiians has commonly paralleled that of our indigenous brothers and sisters, the Alaska Natives and American Indians. This bill provides a process for federal recognition of the Native Hawaiian governing entity for a government-to-government relationship with the United States.

This bill does the following. First, it provides a process for federal recognition of the Native Hawaiian governing entity. Second, it establishes an office within the Department of the Interior to focus on Native Hawaiian issues and to serve as a liaison between Native Hawaiians and the Federal Government. Finally, it establishes an interagency coordinating group to be composed of representatives of federal agencies which administer programs and implement policies impacting Native Hawaiians.

This measure does not establish entitlements or special treatment for Native Hawaiians based on race. This measure focuses on the political relationship afforded to Native Hawaiians based on the United States’ recognition of Native Hawaiians as the aboriginal, indigenous peoples of Hawaii. As we all know, the United States’ history with its indigenous peoples has been dismal. In recent decades, however, the United States has engaged in a policy of self-determination and self-governance with its indigenous peoples. Government-to-government relationships provide indigenous peoples with the opportunity to work directly with the federal government on policies affecting their lands, natural resources, and many other aspects of their well-being. While federal policies towards Native Hawaiians have paralleled that of Native American Indians and Alaska Natives, the federal policy of self-determination and self-governance, has not yet been extended to Native Hawaiians.

This measure extends this policy to Native Hawaiians, thus furthering the process of reconciliation between Native Hawaiians and the United States.

This measure does not impact program funding for American Indians and Alaska Natives. Federal programs for Native Hawaiian health, education and housing are already administered by the Departments of Health and Human Services, Education, and Housing the Urban Development. The bill I introduce today contains a provision which makes clear that this bill does not authorize eligibility for participation in any programs and services provided by the Bureau of Indian Affairs.

This bill does not authorize gaming in Hawaii. In fact, it clearly states that the Indian Gaming Regulatory Act, IGRA, does not apply to the Native Hawaiian governing entity. Hawaii is one of two states in the Union which criminally prohibits all forms of gaming. Therefore, I want to make clear that this bill would not authorize the Native Hawaiian governing entity to conduct any type of gaming in Hawaii.

Finally, this measure does not preclude Native Hawaiians from seeking alternatives in the international arena.
This measure focuses on self-determination within the framework of federal law and seeks to establish equality in the federal policies extended to American Indians, Alaska Natives, and Native Hawaiians.

We introduced similar legislation during the 106th Congress. While the bill was passed by the House of Representatives, the Senate failed to consider it prior to the adjournment of the 106th Congress. The legislation was widely supported by our indigenous brethren, American Indians and Alaska Natives. It was also supported by the Hawaii State Legislature which passed a resolution supporting a government-to-government relationship between Native Hawaiians and the United States. Similar resolutions were passed by the Japanese American Citizens League and the National Education Association.

Mr. President, when most people think of Hawaii, they think of paradise. I agree, it is paradise. However, the essence of Hawaii is captured not by its physical beauty of its islands, but by the beauty of its people. Those who have lived in Hawaii have a unique demeanor and attitude which is appropriately described as the “Aloha” spirit. The people of Hawaii demonstrate the Aloha spirit through their actions—through their generosity, through their appreciation of the environment and natural resources, through their willingness to care for each other, through their genuine friendliness.

The people of Hawaii share many ethnic backgrounds and cultures. This mix of culture and tradition is based on the unique history of Hawaii. The Aloha spirit is generated from the pride we all share in the culture and tradition of Hawaii’s indigenous, native people, the Native Hawaiians. Hawaii’s state motto, “Ua mau ke’a o ka ‘aina i ka pola,” which means “the life of the land is perpetuated in righteousness,” captures the culture of Native Hawaiians. Prior to western contact, Native Hawaiians lived in an advanced society, in distinct and structured communities steeped in science. The Native Hawaiians honored their aina, land, and environment, and therefore developed methods of irrigation, agriculture, aquaculture, navigation, medicine, fishing and other forms of subsistence whereby the land and sea were efficiently used without waste or damage. Respect for the environment formed the basis of their culture and tradition. It is from this culture and tradition that the Aloha spirit, which is demonstrated throughout Hawaii, by all of its people, has endured and flourished.

In 1978, the people of Hawaii acted to preserve Native Hawaiian culture and tradition by amending Hawaii’s state constitution to establish the Office of Hawaiian Affairs to give expression to the right of self-determination and self-governance at the state level for Hawai’i’s indigenous peoples, Native Hawaiians. Since statehood, Hawaii endeavored to address and protect the rights and concerns of Hawaii’s indigenous peoples in accordance with authority delegated under federal policy. The constraints of this approach are evident. This bill extends the federal policy of self-determination and self-governance to Native Hawaiians at the federal level through a government-to-government relationship with the Native Hawaiian governing entity.

This measure is not being introduced to circumvent the 1999 United States Supreme Court decision in the case of Rice v. Cayetano. The Rice case was a voting rights case whereby the Supreme Court held that the State of Hawaii must allow all citizens of Hawaii to vote for the Board of Trustees of a quasi-state agency, the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs was established by citizen of Hawaii as part of the 1978 State of Hawaii Constitutional Convention. The Office of Hawaiian Affairs administers programs and services for Native Hawaiians. The State constitution provided for nine trustees who were Native Hawaiian to be elected by Native Hawaiians. Following the Supreme Court’s ruling in Rice v. Cayetano, the elections were not only open to all citizens in the State of Hawaii, but non-Hawaiians were deemed eligible to serve on the Board of Trustees. Whereas the Rice case dealt with voting rights and the State of Hawaii, the measure we introduce today addresses the federal policy of self-determination and self-governance and does not involve the Office of Hawaiian Affairs.

This measure is critical to the people of Hawaii as it begins a process to address many longstanding issues facing Hawaii’s indigenous peoples and the State of Hawaii. By addressing and resolving these matters, we begin a process of healing, a process of reconciliation not only within the United States, but within the State of Hawaii. The time has come for us to be able to address these deeply rooted issues in order for us to be able to move forward as one.

I cannot emphasize how important this measure is for the people of Hawaii. While Hawaii will always be known for its physical beauty, its true essence is in its people. The time has come to provide Hawaii’s indigenous peoples with the opportunity to engage in a government-to-government relationship with the United States. I look forward to working with my colleagues to enact this critical measure.

By Mrs. BOXER: S. 747. A bill to authorize the Attorney General to make grants to local educational agencies to carry out school violence prevention and school safety activities in secondary schools; to authorize grants to school districts to carry out activities I outlined above. In fact, 77 school districts have already been awarded funds. Why, then, is my bill necessary?
My bill does two important things. One, it writes this program into law. Currently, the Appropriations Committee votes year-to-year whether to fund this initiative. This program is important—important enough to warrant an authorization. My amendment codifies these grants through fiscal year 2006. Secondly, and perhaps most important, my bill speaks to how these grants are funded. All funding would come directly from the Violent Crime Reduction Trust Fund. And rather than set a specific authorization level—rather than pull a number out of thin air and declare that number the ‘need’, my bill would give discretion to the Attorney General to decide how many grants should be awarded, and how much money each grantee should receive.

For example, under the bill, the Attorney General has the flexibility to distribute grants as he sees fit. He does not have to wait for Congress to act, or watch as Congress fails to act. He can identify the need, and address it immediately. On the flip side, if school safety problems improve, as all of us hope, then the Attorney General can spend less on school safety. Again, it is up to his discretion.

You know as well as I do that school safety is a serious problem. We cannot simply stand by the wayside and allow violence to continue disrupting the lives of students and communities. My bill recognizes the widespread reach of these violent outbreaks, and tells communities that the federal government will not fail them. Communities are eager to protect their schoolchildren, and this bill will give them an opportunity to do so.

By Mrs. BOXER:
S. 748. A bill to make schools safer by waiving the local matching requirement under the Community Policing program for the placement of law enforcement officers in local schools; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, last month there were two school shootings in my state. A mere seventeen days and six miles away from each other, they claimed the lives of two students and wounded eighteen others. These shootings were terrible atrocities for their communities, and a painful reminder of the fragile security of our nation’s schools. To combat these tragic acts of violence, many schools employ safety strategies that protect the millions of children, teenagers and adults that attend them every single day. The federal government plays a role in many of these programs. My amendment speaks to one of them: COPS In Schools.

Although the COPS program in 1994, it was not until 1998 that the Department of Justice created a specific COPS In Schools program. Since then, nearly 3,800 police officers have been placed in 1,800 school districts across the nation. California alone has put 270 new police officers in schools across the state.

Unfortunately, not all schools are so lucky. At the time of last month’s shooting at Santana High School in Santee, California, the school happened by pure luck to have two law enforcement officials near campus. The shooting spree at Santana High School lasted a mere six minutes. In this time, more than 30 rounds were shot, two teenagers were killed, and 13 people were wounded. It is dreadful to imagine what might have happened if the police had not responded so quickly.

An even more poignant situation, which underscored the absolutely vital role police officers play in our nation’s schools was present in El Cajon, California. This time, there were no deaths. A police officer—who had been stationed at Granite Hills High School after the Santana High School shooting occurred—responded immediately. He identified the perpetrator, managed to stop the shooter from claiming innocent lives. Had a police officer not been on campus, we may have been counting fatalities instead of injuries.

Make no mistake, the police officers put in schools by the COPS In Schools program are not there to simply patrol the hallways, nor are they there to make schools feel like prisons. Police officers in schools serve an important purpose: they work with school staff to develop anti-crime policies on campus, implement procedures to ensure a safer school environment, and reassure parents that a police officer is there to deal with the students that might cause problems.

Local governments are required to provide 25 percent of the funding to hire these police officers, unless the Attorney General grants them a waiver. Under Attorney General Janet Reno, communities routinely received federal funding to hire police officers for schools without having to contribute matching funds. This was extraordinarily generous, and I am hopeful that this policy will continue.

To ensure that it does, my bill permanently waives the local matching fund requirement for placing a police officer in a school. No child, teenager or adult attending one of America’s public schools should be put in danger simply because of a lack of funding. Communities should be able to put police officers in their schools, period. My bill will allow them to do just that.

We know that having police officers in schools works. They help ensure the safety of our schools, our schoolchildren and our faculty every single day. I encourage my colleagues to show their commitment to our students by supporting this bill.

By Mr. FITZGERALD (for himself, Mr. SCHUMER, Mr. JEFFORDS, Mr. BINGAMAN, Mr. DEWINE, Mrs. CLINTON, Ms. COLLINS, Mr. LIEBERMAN, Mr. MCCAIN, Mr. KERRY, Mrs. FEINSTEIN, Ms. SNOWE, Mrs. BOXER, Mr. SMITH of Oregon, and Mr. TORRICELLI):
S. 749. A bill to provide that no Federal income tax shall be imposed on amounts received by victims of the Nazi regime or their heirs or estates, and for other purposes; to the Committee on Finance.

Mr. FITZGERALD. Mr. President, today I am introducing the Holocaust Survivors Tax Fairness Act of 2001. This important legislation would prevent the federal government from imposing the federal income tax on Holocaust restitution or compensation payments that victims of their heirs may ever receive.

More than 50 years after the end of World War II, many banks and companies in Europe are beginning to return stolen assets to survivors of the Holocaust and their heirs. In August of 1998, two of the largest banks in Switzerland agreed to distribute $1.25 billion as restitution for assets wrongfully withheld during the Nazi reign. And in February of 1999, the German government agreed to establish a fund to compensate victims of the Holocaust. The legislation I am introducing ensures that the beneficiaries of these settlements and other Holocaust restitution or compensation arrangements can exclude the proceeds from taxable income on their federal income tax forms. Holocaust survivors and their families have lived through unspeakable tragedies. While the restitution settlements pale in comparison to what they have lost, this measure ensures that survivors can keep all of what was returned to them without being unnecessarily burdened by taxes.

The Congress must send a clear message that to allow the federal government to tax away any reparations obtained by Holocaust survivors or their heirs is simply unacceptable. Given that the average age of Holocaust survivors now exceeds 80 years of age, we believe it is imperative that the Congress act now to prevent the federal government from attempting to tax this money.

Similar legislation was agreed to by the Senate as an amendment to the Taxpayer Refund Act of 1999. The provision was retained in conference and included in the Taxpayer Refund and Relief Act of 1999. The final bill was vetoed, however, preventing this important provision regarding Holocaust reparations from becoming law.

After over 50 years of injustice, Holocaust survivors and their families are reclaiming what is rightfully theirs. Even as we support these efforts to reclaim stolen property, we must do our part in protecting the proceeds.
By Mr. BIDEN:

S. 750. A bill to amend the Internal Revenue Code of 1986 to provide the same tax treatment for danger pay allowances as for combat pay; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I introduce a bill which would right a wrong, a small wrong but a wrong nevertheless. It affects a handful of our nation's diplomats who serve in the world's most dangerous places: places like Bosnia and Lebanon. Our diplomats serve in some pretty difficult places, often in harm's way, just as our soldiers do.

These diplomats who serve in the most dangerous places receive a special allowance, which is aptly called 'danger pay.' This allowance is not unlike that paid to our military when they are in combat. In fact, in some places where our military and diplomatic personnel serve side by side, both receive a special allowance for their sacrifices.

The military justifiably receives this benefit tax-free. But our diplomatic personnel do not. Through an oversight in the Internal Revenue code, diplomats are taxed on their danger pay, even though they often face similar hardships and dangers. I think that's wrong.

The bill I introduce today, I have a bill which would right this wrong. It affects just a handful of people. But to them it will serve as recognition of the sacrifice they make when they represent the American people in dangerous places overseas.

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. 750

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

SECTION 1. TREATMENT OF DANGER PAY ALLOWANCE.

(a) IN GENERAL.—Subchapter C of chapter 80 of the Internal Revenue Code of 1986 (relating to provisions affecting more than one substantively) is amended by adding at the end the following:

"SEC. 7874. TREATMENT OF DANGER PAY ALLOWANCE.

"(a) General Rule.—For purposes of the provisions of this section, the term 'danger pay allowance area' means any area in which an individual receives a danger pay allowance under section 5928 of title 5, United States Code, for services performed in such area.''

(b) CONFORMING AMENDMENT.—The table of sections for subsection C of chapter 80 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 7874. Treatment of danger pay allowance."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in taxable years ending after the date of the enactment of this Act.

By Mrs. CLINTON:

S. 751. A bill to express the sense of the Senate concerning a new drinking water standard for arsenic; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, when Americans turn on their taps, they expect the water that comes out to be clean and safe. Unfortunately, that is not always the case.

I rise today to ask my colleagues to join me in expressing our support for the new health and science-based standard for arsenic in drinking water. The stronger standard can protect millions of Americans from a known carcinogen. A 1999 National Academy of Sciences report concluded that chronic ingestion of arsenic causes bladder, lung, and skin cancer. The Administration's proposal to withdraw this new standard puts public health at risk.

The science is clear. The National Academy of Sciences has concluded that the current standard, which has not been revised in nearly 60 years, does not meet EPA's goal of public health protection and has urged that it be revised as quickly as possible.

The new, more protective arsenic standard of 10 parts per billion would put our national drinking water standard for arsenic in line with drinking water standards set at the state level, as well as international standards. The World Health Organization has established a guideline for arsenic in drinking water of 10 parts per billion, indicating that the value would be even lower if it were based on health concerns alone, without consideration for the technological and financial capabilities of certain countries.

Withdraw this important new drinking water standard for arsenic, and we risk public health. I urge my colleagues to join me in supporting this important legislation and to join me in expressing our support for the new, science-based drinking water standard for arsenic.

By Mr. BURNS:

S. 752. A bill to amend the Internal Revenue Code of 1986 to reclassify computer equipment as 3-year property for purposes of depreciation; to the Committee on Finance.

Mr. BURNS. Mr. President, I rise today, to introduce the Technology Depreciation Reform Act of 2001. This bill will update the U.S. Tax Code to reflect the evolution of the computer and other high-tech industries.

High-tech hardware is subjected to an outdated tax code. Currently, businesses must depreciate their computer equipment over a five year period. I believe this five year depreciation life for tax purposes is clearly outdated. Many companies today must update their computers as quickly as every 14 months in order to stay current technologically.

Depreciation schedules for technology assets have not been reformed since 1986. This legislation will amend the U.S. Tax Code by reducing the depreciation schedule for high-tech equipment from five years to three years.

I believe it is time to update an outdated tax code to reflect the realities of today's technology-based workplace. A five year depreciation schedule for business computers is no longer realistic.

The Computer Depreciation Reform Act allows every company, from the neighborhood real estate office, to the local hospital, to the local bank to depreciate their computer equipment on a three year schedule. As a result, these companies will no longer be forced to pay for their high-tech equipment long after its useful life has become obsolete.

In short, the tax code is outdated for high-tech hardware. The five year schedule for technology assets is particularly outdated. In fact, this is an ice age for computer technologies. As the chairman of the Communications Subcommittee, I am very aware of the impact this is having on small businesses. Congress has not addressed this
issue since 1986. However, the industry has evolved dramatically since that time. I look forward to working with my colleagues on both sides of the aisle to update the tax code to reflect the realities of today's technological workplace.

By Mr. BREAUX (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BURNS, Mr. CONRAD, Mr. ENZI, Ms. LANDRIEU, Mr. THOMAS, Mr. GRAHAM, Mr. CRAPO, Mr. BAUCUS, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. INOUYE, Mr. AKAKA, Mr. ALLARD, and Mr. HARKIN):

S. 753. A bill to amend the Harmonized Tariff Schedule of the United States to prevent circumvention of the sugar tariff-rate quotas; to the Committee on Finance.

Mr. BREAUX. Mr. President, unfair trade practices cannot and will not be tolerated. American jobs are hurt, industry suffers, and the economy loses. Stuffed molasses is one such example.

Stuffed molasses, a product, consists of refined sugar being mixed with water and molasses for the purpose of disguising the refined sugar so it can evade the United States' GATT-legal sugar import tariff rate quota. It's time to end this scheme because our domestic sugar industry is being hurt by it.

As a trade practice, importing stuffed molasses is a crafty, refined scheme. Stuffed molasses, as a product, consists of refined sugar being mixed with water and molasses for the purpose of disguising the refined sugar so it can evade the United States' GATT-legal sugar import tariff rate quota. It's time to end this scheme because our domestic sugar industry is being hurt by it.

In its disguised state, stuffed molasses has no legitimate commercial use. It does, however, circumvent our legitimate sugar import tariff rate quota.

Once stuffed molasses is brought into the United States, the refined sugar is extracted from the water and molasses and sold in the United States' refined sugar market. Once imported and extracted, it displaces legitimately-produced United States' sugar and legitimately-imported sugar from the 40 countries which export sugar to this country under the tariff rate quota.

The United States company which imports stuffed molasses into this country, a subsidiary of an international conglomerate, brings it in through a tariff category for certain molasses products for which there is little or no tariff.

Senator LARRY CRAIG and I, as Co-Chairmen of the Senate Sweetener Caucus, are introducing today a bipartisan bill which would require the same tariff to be applied to stuffed molasses as is applicable currently to refined sugar imports.

We are pleased that 15 other senators have joined us in introducing the bill. We deeply appreciate their interest and support.

In January of this year, USDA issued a sugar and sweetener report which included the department's analysis of the stuffed molasses situation. For the period 1995/96 to 1999/2000, USDA's report shows stuffed molasses imports escalated from 8,056 short tons raw value to 118,105 short tons raw value, an increase approaching 1400 percent.

USDA's report also says stuffed molasses imports for 1999/2000 were the equivalent of 10.5 percent of imports under the raw and refined sugar tariff rate quotas for that period.

The USDA report forecasts Fiscal Year 2001 imports of stuffed molasses to increase to 125,000 short tons raw value. It also says the sugar used to make this disguised product originates in such countries as Australia and Brazil and is processed into stuffed molasses in Canada, from where it enters the United States.

Our bipartisan legislation makes it clear that its purpose is to stop an unfair trade practice by applying a legitimate tariff to a concocted product which is circumventing our GATT-legal tariff rate quota. It does not affect any other legitimately-traded molasses or molasses product which has been traded historically and has legitimate commercial uses.

This unfair trade practice is completely unacceptable. It is a total rejection of all that is fair in trade. It must be stopped. Our legislation is designed to do just that. I join with Senator KOHL and all of the bill's original cosponsors to invite all other Senators who oppose unfair trade practices to join us in cosponsoring the bill and voting for its passage.

By Mr. LEAHY (for himself, Mr. KOHL, Mr. SCHUMER, and Mr. DURBEN):

S. 754. A bill to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in the late Congress 1 introduced a bill, S. 2993, with Senator KOHL, to give the Federal Trade Commission, FTC, and the Department of Justice, DOJ, the ability to effectively enforce antitrust laws concerning contract and payment arrangements between drug companies which could hurt consumers.

Unfortunately, no action was taken on that Leahy-Kohl bill, and the newspapers are now full of articles about allegations that Shering-Plough paid $90 million to generic drug manufacturers to delay release of a low-cost generic drug taken by heart patients.

While these allegations have yet to be resolved for those particular companies, this story highlights the need to pass legislation to prevent this type of problem from happening in the future.
can be made that allow the manufacturer of the generic drug to claim the 180-day grace period, to block other generic drugs from entering the market, while, at the same time, getting paid by the brand-name manufacturer for not selling the lower-cost generic drug.

The bill we are introducing today will shut this loophole down for companies who want to cheat the public, but keeps the system the same for companies engaged in true competition with each other. This bill would give the FTC or the Justice Department the information they need to take quick and decisive action against companies driven more by greed than by good sense.

It is important for Congress not to overreact to these outrages by throwing out the good with the bad. Most generic companies want to take advantage of this 180-day grace period and manufacture quality generic drugs at much lower costs for consumers. We should not eliminate the incentive for them to do that.

Instead, we should let the FTC and DOJ look at every single deal that could lead to abuse so that only the deals that are consistent with the intent of that law will be allowed to stand.

We look forward to suggestions from other Members on this matter and from brand-name and generic manufacturers who will work with us to make sure this loophole is closed.

We are pleased that Congressman Waxman will introduce a companion bill in the House of Representatives. I look forward to working with him and with the other cosponsors in this effort.

I ask unanimous consent that a brief summary of the Drug Competition Act be printed in the Record.

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

**SUMMARY OF THE DRUG COMPETITION ACT OF 2001**

The bill facilitates Federal Trade Commission and Department of Justice confidential review of agreements between brand-name drug manufacturers and potential generic competitors so that they can more efficiently enforce existing antitrust laws.

The bill covers brand-name drug manufacturers and generic manufacturers that enter into agreements regarding the sale or manufacture of a potentially competing generic equivalent (of any particular brand-name drug).

In cases where those agreements could have the effect of limiting sales of that generic-equivalent drug, or could limit the research or development of that competing generic, both (or all) companies are required to file the texts of those agreements with the Federal Trade Commission and with the Attorney General within 10 business days after the agreement is signed.

Failure to file may result in a civil penalty of not more than $20,000, per day. The Act would take effect 90 days after enactment.

No existing time limits, requirements, or patent or drug approval systems are affected by this limited filing requirement. The bill does not amend the Sherman Act, other antitrust laws, the Hatch-Waxman Act, the Federal Food, Drug and Cosmetic Act, or any patent or drug safety law.

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**STATEMENTS ON SUBMITTED RESOLUTIONS—APRIL 5, 2001**

**SENATE RESOLUTION 66—EXPRESSION OF THE SENSE OF THE SENATE REGARDING THE RELEASING OF TWENTY-FOUR UNITED STATES MILITARY PERSONNEL CURRENTLY BEING DETAINED BY THE PEOPLE'S REPUBLIC OF CHINA**

Mr. THOMAS (for himself, Mr. KERRY, Mr. WARNER, Ms. FINESTEIN, Mr. MUSKOWITZ, Mr. LUGAR, Mr. SMITH of Ohio, Mr. CLINTON, Mr. BROWNBACK, Mr. BAUCUS, Mr. ROBERTS, Mr. NELSON of Florida, Mr. LIEBERMAN, Mr. KENNEDY, Mr. DODD, Mr. TORRICELLI, Mr. CORZINE, Mr. McCONNELL, Mr. LEVIN, Mrs. BOXER, Mr. WIDENER, Mr. DASCHEL, Mr. ROCKETT, Mrs. CARNAHAN, Mr. CONRAD, Mrs. MURRAY, Mr. THURMOND, Mr. CRAPO, Mr. DORGAN, Mr. BAYH, Mr. CAMPBELL, Ms. CANTWELL, Ms. COLLINS, Mr. EDWARDS, Mr. KOHL, Mr. HUTCHINSON, Mr. FITZGERALD, Mr. INOUYE, Mr. JOHNSON, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Mrs. CLINTON. Mr. President, I rise in support of Senator Thomas’ resolution, which calls for the immediate release of the 24 U.S. military personnel who were taken prisoner by China in a March 2001 incident that was forced to make an emergency landing at the Lingshui, Hainan airbase on April 1st. Securing the safe return of the crew and their aircraft is a top priority for our country and this resolution makes that clear.

And I know that I speak for my constituents when I say that I am deeply concerned about the safety of the twenty-four U.S. crew members who are being held in China. My thoughts and prayers are with all of them and their family members, including the family of Kenneth Richter, a Navy cryptographer and native of Staten Island, New York.

We are fortunate to have brave men and women like Kenneth Richter serve our country. It is a reminder of how the courage and hard work of those in our armed forces help to keep America free and secure.

All Americans stand as one behind the President as our nation presses for the immediate release of our people and our aircraft. There is absolutely no justification for their detention for one minute, let alone so many days.

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**SENATE RESOLUTION 68—DESIGNATING SEPTEMBER 6, 2001 AS ‘‘NATIONAL CRAZY HORSE DAY’’**

Mr. JOHNSON submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas Crazy Horse was born on Rapid Creek in 1843;

Whereas during his lifetime, Crazy Horse was a great leader of his people; and

Whereas Crazy Horse was a ‘‘Shirt Wearer’’, having duties comparable to those of the United States Secretary of State;

Whereas it was only after he saw the treaty of 1868 broken that Crazy Horse defended his people and their way of life in the only manner he knew; and

Whereas Crazy Horse took to battle only after he saw his friend, Conquering Bear, killed and only after he saw the failure of the Federal Government agents to bring required treaty guarantees such as food, clothing, shelter, and necessities for existence; and

Whereas Crazy Horse was killed at Fort Robinson, Nebraska, on September 6, 1877, when he was only 34 years of age: Now, therefore,

Be it Resolved, That the Senate

(1) designates September 6, 2001, as ‘‘National Crazy Horse Day’’;

(2) requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. JOHNSON, Mr. President, I rise today to submit a resolution that will commemorate the brave Crazy Horse. Crazy Horse was a great leader of his people, and the designation of September 6 will be the ultimate commendation for his bravery and contribution to Native Americans.

Crazy Horse was born on Rapid Creek in 1843. He was killed when he was only 34 years of age, September 6, 1877. He was stabbed in the back by a soldier at Fort Robinson, Nebraska, while he was under U.S. Army protection. During his life he was a great leader of his people. Crazy Horse was a warrior, and a military genius. His battle strategies are studied to this day at West Point. Crazy Horse was bestowed with the honor of becoming a Shirt Wearer. This honor is comparable to duties like that of the Secretary of State.

Crazy Horse defended his people and their way of life in the only manner he knew, but only after he saw the treaty of 1868 broken. He took to the warpath only after he saw his friend Conquering Bear killed; only after he saw the failure of the government agents to bring required treaty guarantees such as food, clothing, shelter and necessities for existence. In battle the Sioux war...