

Res. 214, a resolution congratulating Lance Armstrong for winning the 2003 Tour de France.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY:

S. 1554. A bill to provide for secondary school reform, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I'm pleased to introduce a bill that will help America's teenagers graduate from high school, go on to college, and enter the working world with the skills they need to succeed. I'm proud to introduce the PASS Act—which stands for the Pathways for All Students to Succeed Act. Today, far too many students drop-out of school and never have a chance for college and a better life. My bill will reach out to vulnerable students during high school by providing the training, guidance and resources they need to stay in school and go on to college.

Specifically, the PASS Act will: help schools hire literacy coaches to strengthen essential reading and writing skills. It will provide grants for high-quality Academic Counselors to ensure each student has an individualized plan and access to services to prepare for college and a good job. And finally, the PASS Act targets resources to those high schools that need the most help, so they can implement research-based strategies for success.

Many of America's high schools and high school students are in serious trouble, and it's only getting worse.

With each new school day, 3,000 secondary students drop out of school. This year alone, nearly 540,000 young people will leave school without attaining a high school diploma. Our Nation's high school graduation rate is 69 percent. And in urban areas, that figure is even worse. Many urban school districts graduate fewer than half of their students. Dropping out has an enormous cost to these students, their families and our communities. Sadly, even those students who do receive a high school diploma are not guaranteed success in college or in life.

Many graduate from high school unprepared for the academic rigor of post-secondary study. About 40 percent of four-year college students and 63 percent of community college students are enrolling in remedial courses in reading, writing, or math when they enter college.

And although approximately 70 percent of high school graduates enroll in college, only 7 percent from low-income families will have earned a bachelor's degree by age 24—in part because they have not been properly prepared for college academics.

That's why today I'm introducing a bill to improve our Nation's secondary schools, especially those serving high-need students. First, the PASS Act would ensure that middle or high

school students who are still struggling to master literacy will get additional help. About 60 percent of students in the poorest communities fail to graduate from secondary school on time, in large part because they don't have the reading or writing skills they need. We took a good step in creating the Reading First program to strengthen students' reading skills in the elementary grades. These skills are the foundation of their success throughout their academic careers. However, many middle and high school students struggle with serious reading deficits and substandard literacy skills that have gone unattended for years.

The 2002 National Assessment of Educational Progress shows that the reading achievement of 12th grade students has declined at all performance levels since 1998. Thirty-three percent of 12th grade boys, and 20 percent of 12th grade girls read below the "basic level."

While the percentage of 4th and 8th graders writing at or above a basic level has increased between 1998 and 2002, the percentage of 12th graders writing at or above basic has gone down.

These numbers show that our concentrated efforts for elementary and middle school students have improved their writing skills, but by neglecting the needs of secondary school students. We are squandering these gains.

In response, Title I of my bill creates a \$1 billion "Reading to succeed" grant program.

Building on the strong foundation of the Reading First program, this grant program will establish effective, research-based reading and writing programs for students in our middle and high schools, including children with limited English proficiency and children with disabilities.

These grants will provide resources for schools to hire literacy coaches at a ratio of at least one for every 20 teachers. The coaches will help teachers incorporate research-based literacy instruction into their core subject teaching. This will strengthen the reading and writing skills of all students, while identifying and helping those students whose skills are especially poor. These coaches will assess students and coordinate services to address significant reading and writing deficits.

In addition to hiring literacy coaches, funds can be used to provide relevant professional development, strengthen curricula in secondary schools, and implement diagnostic assessments, research-based curricula, instructional materials, and interventions in middle and high schools.

These literacy coaches can help us make sure that no more students slip through the cracks because they never learned to read.

In addition to strong literacy skills, careful planning, sound advice and strong academic support are critical to guiding students to success. Too many high school students make it to graduation, only to find that they cannot

attend the school of their choice or enter a chosen career because they are not prepared. Many high school students are floundering—unable to find out what courses they need to take or how they can get past academic or other barriers.

Unfortunately, most of our school counselors serve too many students with too few resources. High school counselors work with an average of 450 students each, making it impossible to guide each individual student along the pathway to high school graduation and work or college. Title II of my bill seeks to address this problem by creating grants for thorough, high-quality academic and career counseling for our high school students.

These grants will cultivate and promote parent involvement in their child's education, and will coordinate support services for at-risk high school students across the country.

This "Creating Pathways to Success Program" would complement other existing successful high school programs by providing \$2 billion to support systemic change in the way we guide our high school students to success.

The funds could be used to hire and train Academic Counselors to work with no more than 150 students each, and to equip these counselors with the time, skills, and resources to work directly with students, parents, and teachers to give each student the individualized attention and service they need.

Academic Counselors will work with students and parents to develop 6-year plans outlining the path each student will take to reach his or her goals.

They will coordinate new resources with existing ones such as GEAR UP, TRIO, Title I, IDEA and Perkins Vocational and Technical Education programs to ensure students receive the services identified in their plans and to facilitate a smooth transition to post-secondary education or a career.

Schools that get these new funds must offer a rigorous college preparatory curriculum to all students, including access to Advanced Placement or International Baccalaureate courses.

Working together we can make sure that our adolescents graduate prepared for any dream they may choose to pursue.

Finally, my bill includes a third title called "Supporting Successful High Schools" to ensure that we take action to help turn around our low-performing high schools.

Approximately 10 percent of the schools which have been identified so far as "in need of improvement" according to the requirements of No Child Left Behind are high schools.

In about 1100 high schools, 75 percent or more of the students enrolled are living in poverty.

Despite these numbers, most reform efforts are focused on elementary schools. We've overlooked struggling middle and high schools.

Under the No Child Left Behind Act, Title I funding should be used to help all schools that need improvement, but high schools receive only 15 percent of Title I funds, even though they enroll 33 percent of low-income students.

Until Title I is fully-funded, it is unlikely that high schools will receive a significant amount of these funds to address the problems they have identified.

Meanwhile, high schools are being held to the requirements of No Child Left Behind without a targeted source of funding to turn around schools in need of improvement.

Our states and districts have worked hard to figure out which high schools need improvement the most, and now it's time we improve them.

That's why my bill would create a \$500 million grant program that allows districts to identify, develop, and implement reforms that will turn around these low-performing schools.

School districts can use funds for research-based strategies and best practices that will improve student achievement and bring success.

Districts would work with parents, teachers, students and communities to choose any effective reform such as small schools, block scheduling, whole school reforms or individualized learning plans.

For example, since research shows that small schools enhance student outcomes by allowing teachers to offer personalized assistance and connect with students, some districts may reduce the size of low-performing high schools by creating smaller schools or academies within larger schools.

Working together, we can do more than identify our schools in need of improvement—we can improve them.

In conclusion, the Pathways for All Students to Succeed Act provides the grants America's students need to promote adolescent literacy, support college and career pathways for all our students, and to improve struggling high schools nationwide.

I hope my colleagues will join me in supporting this bill and addressing the needs of our high school students.

By Mrs. BOXER:

S. 1555. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, history books written about California always comment on the natural beauty of the State because our natural treasures have always been one of the things that makes California unique. But that beauty must not be taken for granted. That is why I am introducing the California Wild Heritage Act of 2003 in an effort to pass the first statewide wilderness bill for California since 1984.

I introduced a similar bill last year and was thrilled that the 107th Congress passed legislation to designate 56,000 acres of my bill as wilderness within the Los Padres National Forest. It was a wonderful first step. The California Wild Heritage Act of 2003 represents the next step.

This legislation will protect more than 2.5 million acres of public lands in 81 different areas, as well as the free-flowing portions of 22 rivers. Every acre of wild land is a treasure. But the areas protected in this bill are some of California's most precious, including: the old growth redwood forests near the Trinity Alps in Trinity and Humboldt Counties; the pristine coastline in the King Range in Humboldt and Mendocino Counties; the Nation's sixth highest waterfall, Feather Falls, in Butte County; the ancient Bristlecone Pines in the White Mountains in Inyo and Mono Counties; and the oak woodlands in the San Diego River area.

The bill protects these treasures by designating these public lands as "wilderness" and by naming 22 rivers—including the Clavey in Tuolumne County and the Owens in Mono County—as "wild and scenic" rivers. These designations mean no new logging, no new dams, no new construction, no new mining, no new drilling, and no motorized vehicles. Mining, logging and grazing activities that are currently permitted would be allowed to continue.

Protection of the areas in this bill is necessary to ensure that these precious places will be there for future generations. Because much of our state's drinking water supply is made up of watersheds in our national forests, this bill also helps ensure California has a safe, reliable supply of clean drinking water.

This bill would also mean that the hundreds of plant and animal species that make their homes in these areas will continue to have a safe haven. Endangered and threatened species whose habitats will be protected by this bill include the bald eagle, Sierra Nevada Red Fox, and spring run chinook salmon, among others.

In short, this bill preserves, prevents, and protects. It preserves our most important lands, it prevents pollution, and it protects our most endangered wildlife.

That is why this bill is so widely supported. Thousands of diverse organizations, businesses, and others see the importance of this legislation and have given it their support. Additionally, over 400 local elected officials have voiced support for the protection of their local areas.

Despite the tremendous support for this bill, it is not without opponents. They will say this bill is too large and goes too far. Yet this bill is similar in size to other statewide wilderness bills that have already passed Congress. The 1984 California Wilderness Act protected approximately 2 million acres and 83 miles of the Tuolumne River. A more recent wilderness bill, the Cali-

fornia Desert Protection Act, protected approximately 6 million acres of desert areas.

It is important to note that only 13 percent of California is currently protected as wilderness. This bill would raise that amount to 15 percent. During the last 20 years, 675,000 acres of unprotected wilderness—approximately the size of Yosemite National Park—lost their wilderness character due to activities such as logging and mining. As our population increases, and California becomes home to almost 50 million people, these development pressures are only getting worse. If we fail to act now, there simply will not be any wild lands or wild rivers left to protect.

The other big question that has been raised is whether this bill will limit public access to these areas. I do not believe this will be the case. While wilderness designation means the wilderness areas are closed to mountain bikers, they remain open to a myriad of recreational activities, including horseback riding, fishing, hiking, backpacking, rock climbing, cross country skiing, and canoeing. Mountain bikers and motorized vehicles have 100,000 miles of roads and trails in California that are not touched in my bill. Furthermore, numerous economic studies suggest wilderness areas are a big draw that attract outdoor recreation visitors, and tourism dollars, to areas that have received this special designation.

One important change has been made to the legislation after concerns were raised about wildfire prevention and control near at-risk communities. The bill I am introducing today protects communities by allowing Federal, local and State agencies to perform fire and emergency response activities in wilderness areas. I worked extensively with the California Department of Forestry on this legislation, and they have expressed their support for the language in the bill.

Those of us who live in California have a very special responsibility to protect our natural heritage. Past generations have done it. They have left us with the wonderful and amazing gifts of Yosemite, Big Sur and Joshua Tree. These are places that Californians cannot imagine living without. Now it is our turn to protect this legacy for future generations—for our children's children, and their children. This bill is the place to start and the time to start is now.

By Mr. SMITH (for himself, Mr. BREAU, Mr. KERRY, Mrs. LINCOLN, Mr. ROCKEFELLER, and Ms. SNOWE):

S. 1556. A bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Finance.

Mr. SMITH. Mr. President, I am pleased today to introduce the Legal

Services Benefit Act of 2003. My friends and colleagues from the Senate Finance Committee, Senators BREAUX, KERRY, LINCOLN, ROCKEFELLER, and SNOWE, join me in introducing this important bill. This bill will amend the Internal Revenue Code to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

When Congress first enacted Internal Revenue Code Section 120 in 1976, employers were provided with an incentive to provide their workforce with group legal services benefits at modest cost. These benefit programs enabled employees to contact an attorney and get advice and, if necessary, representation. Most plans covered the everyday legal events that we all expect to encounter in life, from house closings and adoptions to traffic tickets and drafting wills. The provision sunsetted in 1992, however, eliminating this valuable benefits' favorable tax status.

Qualified employer-paid plans have proven to be highly efficient. These arrangements make substantial legal service benefits available to participants at a fraction of what medical and other benefit plans cost. For an average employer contribution of less than \$150 annually, employees are eligible to utilize a wide range of legal services often worth hundreds and even thousands of dollars, which otherwise would be well beyond their means.

In addition to the efficiency with which these plans can deliver services, their ability to make preventive legal services available results in additional savings in our economy. Group legal plans give investors access to legal services before they are induced to make unwise investments. Having a lawyer available to review the investment documents could mean the difference between a comfortable retirement and lost life savings. Group legal plan attorneys add a layer of security to the system.

I strongly encourage my colleagues to join me in supporting this important proposal to provide efficient access to our legal system for working Americans. I look forward to working with Chairman GRASSLEY to move this matter successfully through the Finance Committee.

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

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

S. 1556

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 "Legal Services Benefit Act of 2003".

SEC. 2. EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS RESTORED, INCREASED, AND MADE PERMANENT.

(a) INCREASE OF EXCLUSION.—Subsection (a) of section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking the last sentence.

(b) RESTORATION AND PERMANENCE OF EXCLUSION.—Section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

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

By Mr. MCCONNELL (for himself, Mr. SARBANES, and Mrs. BOXER):

S. 1557. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia; to the Committee on Finance.

Mr. MCCONNELL. 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. 1557

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Armenia has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974.

(2) Armenia acceded to the World Trade Organization on February 5, 2003.

(3) Since declaring its independence from the Soviet Union in 1991, Armenia has made considerable progress in enacting free-market reforms within a stable democratic framework.

(4) Armenia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States and has concluded many bilateral treaties and agreements with the United States.

(5) United States-Armenia bilateral trade for 2002 totaled more than \$134,200,000.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO ARMENIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Armenia; and

(2) after making a determination under paragraph (1) with respect to Armenia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of Armenia, title IV of the Trade Act of 1974 shall cease to apply to that country.

Mr. SARBANES. Mr. President, I rise to join my colleague from Kentucky, Senator MCCONNELL, in introducing legislation to grant PNTR to Armenia.

Since becoming an independent sovereign state in 1991, with the collapse of the Soviet Union, Armenia has pursued comprehensive economic reforms within a democratic framework. Armenia's accession to the World Trade Organization this year reflects its continuing progress in adopting and implementing economic and trade reforms, and it now ranks 44th among the 161 nations surveyed in the "2003 Index of Economic Freedom" that the Wall

Street Journal and the Heritage Foundation have jointly published.

As a one-time Soviet republic, Armenia continues to be subject to the freedom-of-emigration requirements set out in Title IV of the Trade Act of 1974, the Jackson-Vanik amendment, and therefore its trade status is subject to annual review by the President. Since becoming independent Armenia has annually received the waiver provided under Jackson-Vanik, and indeed for the past 6 years Armenia has been found to be fully in compliance with the amendment.

So long as Armenia remains subject to the Jackson-Vanik provision, the United States is precluded from extending PNTR status and normalizing U.S.-Armenian trade relations. At the same time, however, WTO rules require the United States to grant PNTR to all other WTO members without condition. Our legislation would resolve this contradiction by authorizing the President to terminate the Jackson-Vanik provision with respect to Armenia and extend PNTR. Without PNTR, neither Armenia nor the United States will be able to realize the full benefits of Armenia's accession to the WTO.

PNTR will bring the United States into compliance with WTO rules. And it will significantly expand opportunities for bilateral trade between the United States and Armenia.

In addition, it will enable Armenia to deal more effectively with the challenges of building a vigorous and prosperous economy, at a time when 50 percent of the population lives in poverty and the poverty rate has dropped from 55 percent only in the last 2 years. These challenges are made all the more daunting by the blockades that Azerbaijan and Turkey continue to impose; according to the World Bank, these blockades raise the cost of doing business in Armenia by 30 percent. Expanded U.S.-Armenian trade will act as a spur to greater economic activity in Armenia, which in turn will lead to more and better-paying jobs and ease the hardships that Armenians confront in their daily lives.

The ties between our country and Armenia are strong, and normalization of trade relations will make them stronger still. I urge my colleagues to join me in supporting this legislation.

By Mr. ALLARD:

S. 1558. A bill to restore religious freedoms; to the Committee on the Judiciary.

Mr. ALLARD. 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. 1558

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 "Religious Liberator Restoration Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Declaration of Independence declares that governments are instituted to secure certain unalienable rights, including life, liberty, and the pursuit of happiness, with which all human beings are endowed by their Creator and to which they are entitled by the laws of nature and of nature's God.

(2) The organic laws of the United States Code and the constitutions of every State, using various expressions, recognize God as the source of the blessings of liberty.

(3) The first amendment to the Constitution secures rights against laws respecting an establishment of religion or prohibiting the free exercise thereof made by the Federal Government.

(4) The rights secured under the first amendment have been interpreted by the Federal courts to be included among the provisions of the 14th amendment.

(5) The 10th amendment reserves to the States, respectively, the powers not delegated to the Federal Government nor prohibited to the States.

(6) Disputes and doubts have arisen with respect to public displays of the Ten Commandments and to other public expression of religious faith.

(7) Section 5 of the 14th amendment grants Congress the power to enforce the provisions of the 14th amendment.

(8) Article III, section 2 of the Constitution grants Congress the authority to except certain matters from the jurisdiction of the Federal courts inferior to the Supreme Court.

SEC. 3. RELIGIOUS LIBERTY RIGHTS DECLARED.

(a) **DISPLAY OF TEN COMMANDMENTS.**—The power to display the Ten Commandments on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively.

(b) **WORD "GOD" IN PLEDGE OF ALLEGIANCE.**—The power to recite the Pledge of Allegiance on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively. The Pledge of Allegiance shall be, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with Liberty and justice for all."

(c) **MOTTO "IN GOD WE TRUST"**—The power to recite the national motto on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively. The national motto shall be, "In God we trust".

(d) **EXERCISE OF CONGRESSIONAL POWER TO EXCEPT.**—The subject matter of subsections (a), (b), and (c) are excepted from the jurisdiction of Federal courts inferior to the Supreme Court.

By Mr. KENNEDY (for himself, Mrs. HUTCHISON, Mr. INOUE, Ms. LANDRIEU, Mr. BINGAMAN, and Mrs. MURRAY):

S. 1559. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator HUTCHISON, Senator INOUE, Senator LANDRIEU, Senator BINGAMAN, and Sen-

ator MURRAY in introducing the "Comprehensive Tuberculosis Elimination Act". With the evolution of modern medicine, especially in recent years, we have the actual opportunity to do that now—eliminate this century-old public health threat in the United States. Tuberculosis was once the leading cause of death in America. In recent decades, developments in science and public health have transformed tuberculosis into a preventable and treatable disease. Yet, every year, thousands of Americans still become infected and die from tuberculosis.

Experts agree that we have the ability to eliminate it. What's lacking is a strong national commitment to do it. More than 50 years ago, when the first effective drugs to treat TB were introduced and case rates began to decline, we began making slow but steady progress, and we might have eliminated it. But instead, the declining number of cases led to complacency and neglect. In fact, Federal categorical funding for TB control and prevention was discontinued in 1972, and wasn't restored until 1981. Efforts to control the disease broke down in many parts of the country.

In the late 1980s, cases rose by 20 percent increase in TB and drug-resistant strains began nationwide systems for dealing with the infection had been allowed to deteriorate. In New York City alone, more than \$1 billion was needed to regain control of TB.

After considerable effort, TB control was re-established and rates again began declining. Today, with the low number of infections and the expertise of public health officials, we have the opportunity to eradicate TB from the Nation once and for all.

The Institute of Medicine has developed guidelines to do so, and in this bipartisan legislation, my colleagues and I proposed to implement the guidelines by authorizing \$235 million for the Centers for Disease Control and Prevention to expand and intensify our prevention, control, and elimination efforts.

Our bill also expands support for vaccine development at the National Institute of Allergy and Infectious Diseases. Experts estimate that \$240 million will be needed to develop a safe and effective vaccine. Our legislation authorizes \$136 million in 2004 and \$162 million in 2005, with the goal of committing the necessary resources to make the vaccine available by 2008 at the latest.

We cannot allow tuberculosis to take more American lives when we have the ability to prevent it. It's time for a new and sustained commitment to the fight against tuberculosis. I urge my colleagues to support this legislation, and I look forward to its enactment.

By Mr. KOHL:

S. 1560. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the work-related expenses of handicapped individuals; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Disable Workers

Empowerment. Under current law, millions of disabled Americans are unable to claim a tax deduction for many of the expenses they incur as a result of their disabilities. This creates a significant barrier to their leading productive and rewarding lives through employment. For example, in order to work, an individual who uses a wheelchair might need to hire a personal attendant to provide transportation to and from the job site.

At a time when we are doing everything in our power to assist individuals looking for employment, it is counterintuitive to retain legislation that prevents some from seeking employment. While current law allows a limited deduction for disabled workers' expenses, this deduction is limited to expenses that are necessary for the individual to perform work satisfactorily. This means, for example, that a blind individual could only claim a deduction for the cost of using a reading service at the workplace and during normal work hours. In addition, if this individual does not itemize his or her tax returns, the individual would receive no deduction.

This legislation would correct this inequity. Under this bill, whether or not the individual itemizes, he or she would be able to claim a deduction for the overtime services that they require, regardless of itemizing his or her return. This is just one example of the dozens of, often expensive, services that better enable people with disabilities to do their jobs.

I believe we need to do more to encourage individuals with disabilities and the desire to seek out employment. Current law perpetuates an inequity that discourages people from living the fullest possible life. I believe this legislation goes a long way in correcting a shortcoming in current law, and will remove a barrier for millions of disabled workers. I urge my colleagues to join me in supporting this legislation, and hope to see its passage this year.

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. 1560

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 "Disabled Workers Empowerment Act of 2003".

SEC. 2. DEDUCTION FOR WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.

(a) **IN GENERAL.**—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.

"(a) **IN GENERAL.**—In the case of a handicapped individual, there shall be allowed as a deduction for the taxable year an amount

equal to the amount of qualified work-related expenses paid or incurred by the taxpayer during the taxable year.

“(b) LIMITATION BASED ON EARNED INCOME.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed the handicapped individual's earned income (within the meaning of section 32) reduced by the employment-related expenses taken into account under section 21 with respect to such individual.

“(c) QUALIFIED WORK-RELATED EXPENSES.—For purposes of this section, the term ‘qualified work-related expenses’ means any of the following expenses incurred by reason of the individual being a handicapped individual:

“(1) Expenses for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work.

“(2) Expenses to provide transportation and necessary personal services for the individual which are necessary for such individual to be able to work (including commuting between the individual's residence and place of employment).

“(3) Expenses to maintain the household of the individual and to provide other domestic or personal services for the individual which are necessary for such individual to be able to work.

“(d) HANDICAPPED INDIVIDUAL.—For purposes of this section, the term ‘handicapped individual’ has the meaning given to such term by section 190(b)(3).

“(e) SPECIAL RULES.—

“(1) COORDINATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under section 162 for any expense to the extent that a deduction for such expense is allowed under this section.

“(2) JOINT RETURNS.—In the case of a joint return, this section shall be applied separately to each spouse.”

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new paragraph:

“(19) WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.—The deduction allowed by section 223.”

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 223 and inserting the following new items:

“Sec. 223. Work-related expenses of handicapped individuals.

“Sec. 224. Cross reference.”

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

By Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. DURBIN):

S. 1561. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing a bill that would preserve existing seats on the District of Columbia Superior Court. I am pleased to be joined in this effort by Senators VOINOVICH and DURBIN.

The Superior Court is the local court of general jurisdiction in the District of Columbia. The Associate Judges on the Court are selected through a two-step review process. When a vacancy on the Court occurs, usually because of a

retiring judge, the District of Columbia Judicial Nominations Commission, solicits applicants to fill the vacancy. They narrow the possible number of candidates to three and send those three names to the President. The President then selects one of those three candidates to nominate and sends the nominee to the Senate for confirmation. Existing law caps the total number of judges on the Superior Court at 59.

Recently, I was informed that nominations, currently pending in the Committee on Governmental Affairs, and an additional candidate expected to be nominated in the coming months, may not be able to be seated on the Court, even if they are confirmed by the Senate. The three seats that these candidates are intended to fill were left open by retiring judges, so they are not new seats on the Court. The cause of this unusual problem is the District of Columbia Family Court Act, enacted last Congress. That Act created three new seats for the Family Court, which is a division of the Superior Court, but failed to increase the overall cap on the number of judges seated on the Court. As a result, the Family Court Act effectively eliminated three existing seats in the other divisions of the Court, including the criminal and civil divisions.

Because of this, the Governmental Affairs Committee currently has four nominations pending for the Superior Court, but only two seats left to fill. I also understand that there is yet another nomination expected in the coming months. Because existing law sets strict requirements on both the D.C. Judicial Nominations Commission as well as the White House on how quickly they must process potential candidates and make a nomination, it is unclear whether they have legal grounds to halt their processes. Nor is it clear as to whether, had they known of this problem, they would have had the power to not make the nominations they have already made.

This is a highly unusual situation. Mr. President, for this body to have nominations pending before it for which there are no open positions. The bill I introduce today would rectify this problem by amending the District of Columbia Code to increase the cap on the number of Associate Judges on the Superior Court. This is not intended to create new seats on the Court; that was already done when the D.C. Family Court Act was enacted. Instead, this would preserve existing seats on the Court and remedy a problem that is effecting not only the Court, but the Senate as well. I believe that it is also important to not only remedy the immediate problem before the Senate, but also to ensure that all of the divisions of the Superior Court are fully staffed. This is more than just a procedural issue. It is also important for the citizens of the District of Columbia to know that all of the divisions, including criminal and civil, are

operating at full capacity. Eliminating existing seats in the criminal and civil divisions will not improve the administration of justice in the District, but can only result in increased judicial case-load and delays at the Courthouse.

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

S. 1562. A bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under state law; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing “The Home School Non-discrimination Act” (HONDA). This bill would clarify several existing Federal statutes which inadvertently exclude home schoolers. I am pleased the Senator ALLEN is joining me in sponsoring this measure.

All too often, Federal laws relating to education have left out the millions of children across the Nation who are benefitting from home schooling. For example, home schoolers generally cannot qualify for the education savings accounts, unless they live in one of 13 states where a home school is treated as a private school. Also, home schooled students have found themselves to be ineligible for student aid in some circumstances.

Nearly 2 million American children were home schooled during the 2000–2001 school year. These are good students who frequently outperform their public school peers. For example, in 2002 home schoolers as a whole averaged over 70 points higher on the Scholastic Aptitude Test (SAT). Also, although home schoolers only make up about 2 percent of the U.S. school-age population, in 2003 they made up 12 percent of the 251 spelling finalists and 5 percent of 55 geography bee finalists.

These students consistently score at the highest levels of achievement tests and get into some of the best colleges and universities in our Nation. They are hard working, intelligent, and active in their communities. However, these students may be denied services available to other students because of an oversight in Federal law. That is not right, and HONDA will rectify the situation. I hope my colleagues will join me and Senator ALLEN in this effort.

I ask unanimous consent to print a section-by-section analysis of HONDA as well as the text of the bill in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Sec. 1—Title.

Sec. 2—Findings. This section merely states the findings of Congress that parents have the right to home school their children, home schooling is effective, and the Congress and the Courts recognize the right of parents to home school their children. It also states that certain federal laws inadvertently exclude home schoolers, and that these laws are in need of clarification.

Sec. 3—Sense of Congress. This section states that it is the sense of Congress that

home schooling has made a positive contribution to our nation and that parents who choose to homeschool should be encouraged in their efforts.

Sec. 4—Clarification of Provisions on Institutional and Student Eligibility Under the Higher Education Act of 1965. To receive federal student aid, both a student and the institution accepting that student must be “eligible” under the Higher Education Act. It’s been clear since 1998 that home schoolers are eligible, but regulations promulgated in the late 1990’s called that eligibility into question. This section would merely clarify that institutions which accepted home schoolers would remain eligible for federal aid.

Sec. 5—Clarification of the Child Find Process Under the Individuals with Disabilities Education Act. Under IDEA, local school officials must seek out students who may qualify for special education services. There is no requirement under current law that forces school personnel to ignore the wishes of the parent and evaluate that parent’s child under the child find process when they are found, though. Some schools, however, continue to force parents to submit their children for evaluation, even when those parents intend to home school their children. This section clarifies that if a parent does not give his or her consent, then officials are not required to evaluate their child.

Sec. 6—Clarification of the Coverdell Education Savings Account as to its Applicability for Expenses Associated with Students Privately Educated at Home under State Law. This section states that parents would be eligible to use money saved in Coverdell Savings Accounts for qualified home education expenses, just as parents of private and public schooled students can now use that money for qualified education expenses.

Sec. 7—Clarification of Section 444 of General Education Provisions Act as to Publicly Held Records of Students Privately Educated at Home Under State Law. The Family Educational Records and Privacy Act makes the records of public school students unavailable to the general public. In many states, though, home schooled students must file information with public education officials. This information is not protected by the Family Educational Records and Privacy Act, even though similar records of public school students are. This section would rectify this situation.

Sec. 8—Clarification of Eligibility for Students Privately Educated at Home Under State Law for the Robert C. Byrd Honors Scholarship Program. This section would allow home schooled students to apply for the federally funded Robert C. Byrd Honors Scholarship Program.

Sec. 9—Clarification of the Fair Labor Standards Act as Applied to Students Privately Educated at Home Under State Law. This section would allow students who are home schooled to work during traditional school hours. Since home schooled students are not bound by the traditional school day and since many families choose home schooling for its flexibility, it makes sense for the law to accommodate this flexibility. This would not affect any other child labor laws.

S. 1562

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 “Home School Non-Discrimination Act of 2003”.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The right of parents to direct the education of their children is an established

principle and precedent under the United States Constitution.

(2) The Congress, the President, and the Supreme Court, in exercising their legislative, executive, and judicial functions, respectively, have repeatedly affirmed the rights of parents.

(3) Education by parents at home has proven to be an effective means for young people to achieve success on standardized tests and to learn valuable socialization skills.

(4) Young people who have been educated at home are proving themselves to be competent citizens in post-secondary education and the workplace.

(5) The rise of private home education has contributed positively to the education of young people in the United States.

(6) Several laws, written before and during the rise of private home education, are in need of clarification as to their treatment of students who are privately educated at home pursuant to State law.

(7) The United States Constitution does not allow Federal control of homeschooling.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) private home education, pursuant to State law, is a positive contribution to the United States; and

(2) parents who choose this alternative education should be encouraged within the framework provided by the Constitution.

SEC. 4. CLARIFICATION OF PROVISIONS ON INSTITUTIONAL AND STUDENT ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965.

(a) CLARIFICATION OF INSTITUTIONAL ELIGIBILITY.—Section 101(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)(1)) is amended by inserting “meeting the requirements of section 484(d)(3) or” after “only persons”.

(b) CLARIFICATION OF STUDENT ELIGIBILITY.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended by striking the heading “STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES” and inserting “SATISFACTION OF SECONDARY EDUCATION STANDARDS”.

SEC. 5. CLARIFICATION OF THE CHILD FIND PROCESS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 614(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(1)) is amended by adding at the end the following:

“(D) EFFECT OF ABSENCE OF CONSENT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under this paragraph or for special education or related services to a child with a disability under this part—

“(i) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

“(ii) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.”.

SEC. 6. CLARIFICATION OF THE COVERDELL EDUCATION SAVINGS ACCOUNT AS TO ITS APPLICABILITY FOR EXPENSES ASSOCIATED WITH STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

(a) IN GENERAL.—Paragraph (4) of section 530(b) of the Internal Revenue Code of 1986 (relating to qualified elementary and secondary education expenses) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR HOME SCHOOLS.—For purposes of clauses (i) and (iii) of subparagraph (A), the terms ‘public, private, or religious school’ and ‘school’ shall include any home school which provides elementary or secondary education if such school is treated as a home school or private school under State law.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF SECTION 444 OF THE GENERAL EDUCATION PROVISIONS ACT AS TO PUBLICLY HELD RECORDS OF STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g; also referred to as the Family Educational Rights and Privacy Act of 1974) is amended—

(1) in subsection (a)(5), by adding at the end the following:

“(C) For students in non-public education (including any student educated at home or in a private school in accordance with State law), directory information may not be released without the written consent of the parents of such student.”;

(2) in subsection (a)(6), by striking “, but does not include a person who has not been in attendance at such agency or institution.” and inserting “, including any non-public school student (including any student educated at home or in a private school as provided under State law). This paragraph shall not be construed as requiring an educational agency or institution to maintain education records or personally identifiable information for any non-public school student.”; and

(3) in subsection (b)(1), by striking subparagraph (F) and inserting the following:

“(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, provided—

“(i) such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted; and

“(ii) for students in non-public education, education records or personally identifiable information may not be released without the written consent of the parents of such student.”.

SEC. 8. CLARIFICATION OF ELIGIBILITY FOR STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW FOR THE ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419F(a) of the Higher Education Act of 1965 (20 U.S.C. §1070d-36(a)) is amended by inserting “(or a home school, whether treated as a home school or a private school under State law)” after “public or private secondary school”.

SEC. 9. CLARIFICATION OF THE FAIR LABOR STANDARDS ACT AS APPLIED TO STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

Subsection (1) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203) is amended by adding at the end the following: “The Secretary shall extend the hours and periods of permissible employment applicable to employees between the ages of fourteen and sixteen years who are privately educated at a home school (whether the home school is treated as a home school or a private school under State Law) beyond such hours and periods applicable to employees

between the ages of fourteen and sixteen years who are educated in traditional public schools.”.

By Mr. KENNEDY (for himself, Mrs. CLINTON, and Mr. PRYOR):

S. 1563. A bill to require the Federal Communications Commission to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KENNEDY. Mr. President, Senator CLINTON and I are proposing legislation to protect the voices of language minorities in our country. Representative ROBERT MENENDEZ will be introducing a companion bill in the House after the August recess. Our bill is called the National Minority Media Opportunities Act. Its goal is to see that Americans who are members of any “language minority” groups under the Voting Rights Act—defined as American Indian, Asian Americans, Alaskan Natives, and Hispanic Americans—are not injured by excessive media concentration in companies that broadcast primarily in their native languages.

Neither the Federal Communications Commission’s new broadcast ownership regulations adopted on June 2 nor the previous regulations deal with the effects of growing media concentration on citizens relying on minority-language broadcasts for their news and information.

The FCC’s new rules are already controversial because they allow excessive concentration, in spite of its effect on competition, the diversity of views, and other major national, State, and local priorities. Unfortunately, the specific and often more harmful effects of such concentration on minority populations have gone largely unnoticed.

For instance, surveys show that the majority of the nearly 40 million Hispanic Americans rely significantly on Spanish-language broadcast media for their news and information. Forty percent—nearly 16 million—of them rely predominantly on Spanish-language broadcast media, and 25 percent—nearly 10 million—rely exclusively on it.

Additional measures are clearly needed to guarantee that Americans who are members of minority language groups will continue to have access to diverse sources of news, information and cultural programming, and to opportunities for ownership of their media.

Our bill addresses these concerns by requiring the FCC to hold public hearings, with notice and opportunity to comment, before approving the transfer of a license for a station serving a minority-language audience. It also requires the FCC to report to Congress on issues involving the concentration of ownership and control of minority-language broadcast media and the effects of excessive concentration on competition and diversity in these minority-language markets.

The bill will continue the Nation’s strong commitment to competition in

broadcast media and the fullest possible participation in the political process for all our citizens, including the growing number of those whose first language is English. We look forward to working with our colleagues in Congress to enact this needed legislation.

By Mr. CORZINE (for himself, Mr. KERRY, Mrs. MURRAY, Mr. DURBIN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 1564. A bill to provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, every two minutes a woman is sexually assaulted in the United States, and an estimated 25,000 annually will become pregnant as a result of rape. Though there is widespread consensus in the medical community that emergency contraception is a safe and effective means of preventing pregnancy after unprotected intercourse, studies indicate that many hospitals still do not provide emergency contraception to rape survivors. That is why today, along with my colleagues Senators KERRY, MURRAY, DURBIN, LAUTENBERG, and CANTWELL, I am introducing the Compassionate Assistance in Rape Emergencies Act, or CARE Act, which will ensure that women who are survivors of sexual assault have access to and information about emergency contraception regardless of where they receive medical care.

Emergency Contraceptive Pills (ECPs) are the most commonly used method of emergency contraception. ECPs are birth control pills taken in larger doses that can reduce a woman’s risk of becoming pregnant by up to 95 percent when taken within 72 hours of unprotected intercourse. I want to be clear that emergency contraception does not cause abortion. Instead, emergency contraception works by inhibiting ovulation or fertilization, or by preventing the implantation of a fertilized egg before a pregnancy can occur.

Despite the documented benefits of emergency contraception, many hospitals neglect their responsibility to offer emergency contraception to sexual assault survivors. For example, a survey of emergency rooms in New York State found that 54 percent did not consistently provide emergency contraception to women who had been raped. In Pennsylvania, only 28 percent of hospitals routinely offer and provide emergency contraception to sexual assault survivors.

In short, survivors of sexual assault are not consistently getting access to all the treatment options available to them to prevent an unwanted pregnancy. I believe it is unacceptable that a rape victim’s access to standard care depends on the hospital to which she is taken. All healthcare institutions that

counsel or treat women who have been raped should consistently inform, provide or meaningfully refer women for emergency contraception. Indeed, the emergency care standards of the American Medical Association recommend that rape survivors seeking medical care be counseled about their risk of pregnancy and offered emergency contraception.

The legislation, which is identical to legislation recently introduced in the House of Representatives by Representatives JAMES GREENWOOD and STEVEN ROTHMAN, would require hospitals that receive federal funds to offer information about and access to emergency contraception for victims of rape. This commonsense legislation will help ensure that women who have survived a heinous sexual attack will have access to comprehensive and compassionate emergency medical care.

We must not sit idly by while so many sexual assault victims are not given the opportunity to safely and effectively prevent a pregnancy caused by their assault. I ask my colleagues to join me in support of this effort to help sexual assault victims across the country receive the medical care they need and deserve.

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. 1564

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 “Compassionate Assistance for Rape Emergencies Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It is estimated that 25,000 to 32,000 women become pregnant each year as a result of rape or incest. An estimated 22,000 of these pregnancies could be prevented if rape survivors had timely access to emergency contraception.

(2) A 1996 study of rape-related pregnancies (published in the American Journal of Obstetrics and Gynecology) found that 50 percent of the pregnancies described in paragraph (1) ended in abortion.

(3) Surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted.

(4) The risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack.

(5) The Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent.

(6) Medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy.

(7) In light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills.

(8) The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that offering emergency contraception to female patients after a sexual assault should be considered the standard of care.

(9) Nine out of ten women of reproductive age remain unaware of emergency contraception. Therefore, women who have been sexually assaulted are unlikely to ask for emergency contraception.

(10) New data from a survey of women having abortions estimates that 51,000 abortions were prevented by use of emergency contraception in 2000 and that increased use of emergency contraception accounted for 43 percent of the decrease in total abortions between 1994 and 2000.

(11) It is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so that she may prevent an unintended pregnancy.

SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “emergency contraception” means a drug, drug regimen, or device that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term “hospital” has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term “Secretary” means the Secretary of Health and Human Services.

(4) The term “sexual assault” means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

By Mr. INOUE:

S. 1565. A bill to reauthorize the Native American Programs Act of 1974; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, August 11, 2003, will mark the 25th Anniversary of the American Indian Religious Freedom Act of 1978.

I am proud to have served as one of nine original co-sponsors of this Act, joining Senators Abourezk, Goldwater, Gravel, Hatfield, Humphrey, Kennedy, Matsunaga and Stevens to introduce the Joint Resolution on December 15, 1977.

The American Indian Religious Freedom Act states that it is the policy of the United States to preserve and protect the traditional religions of the American Indians, Aleuts, Eskimos and Native Hawaiians. It was necessary to declare this policy to begin to counter the ill effects that stemmed from the policy of the 1880s to the 1930s that sought to ban the exercise of Native American traditional religions.

With the American Indian Religious Freedom Act policy in place, Congress built on this foundation to develop more specific legislation in 1989 and 1990 to provide for the repatriation of Native American human remains, sacred objects and items of cultural patrimony that were taken from Native Americans during the time of that Federal policy attempted to eliminate the practice of their religions.

From time to time, the Congress has also returned certain sacred lands to Native Americans for their traditional religious use.

The Committee on Indian Affairs has been conducting a series of oversight hearings on Native American sacred places and has found that many of these areas are being systematically damaged and destroyed, and Native Americans have no specific statutory authority that would enable them to defend their traditional religious areas in court.

I believe that this twenty-fifth anniversary year of the American Indian Religious Freedom Act is a fitting time for Congress to amend the Act, to assure that Native Americans have the legal means to protect their places of worship.

I believe it is time that we join together in enacting legislation that will fulfill the policy promise of the American Indian Religious Freedom Act.

By Mr. CORZINE:

S. 1566. A bill to improve fire safety by creating incentives for the installation of automatic fire sprinkler systems; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the Fire Safety Incentive Act of 2003, legislation to improve fire safety and save lives by creating incentives for business owners to install automatic fire sprinkler systems. This bill would classify automatic fire sprinkler systems as five-year property for purposes of depreciation under the Tax Code.

In 2001, fire departments across the United States responded to 1.7 million fires. Not including victims from the September 11 terrorist attacks, 3,745 people died in fires, 99 of whom were firefighters. Fires also caused almost 21,000 civilian injuries and \$8.9 billion in direct property damage.

On average, fire departments respond to a fire every eighteen seconds, with fires breaking out in a structure every sixty seconds and in a residential structure every eighty seconds.

Recent tragedies have demonstrated how the lack of effective fire safety precautions can have disastrous consequences. In February, 99 concertgoers were killed when a pyrotechnic display erupted into a fire that devastated the concert venue in the deadliest fire in Rhode Island history. Unfortunately, the building was not equipped with fire sprinklers to respond to the fire. In my home state of New Jersey, a fire on the campus of Seton Hall killed three college students and injured 58 more people. In response to that tragedy, I introduced the Campus Fire Safety Right to Know Act of 2003, S. 1385, which calls for disclosure of fire safety standards and measures with respect to campus buildings.

The Fire Safety Incentive Act would go further by providing economic incentives to business owners to install automatic fire sprinkler systems.

It is difficult to dispute the effectiveness of sprinklers in controlling fire and saving lives and property. According to the National Fire Prevention Association, over a 10-year period ending in 1998, buildings with fire sprinkler systems were proven safer. There were 60 percent fewer deaths in manufacturing buildings equipped with fire sprinkler systems than in those without. Similarly, in hotels, there were 91 percent fewer deaths in buildings with fire sprinkler systems. In fact, the NPFA has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building in which a fire sprinkler system was installed and operating properly. The same study showed that property loss from fires was significantly reduced by the presence of fire sprinklers, from a low range of 42 percent in industrial buildings to an impressive high of 70 percent in public assembly occupancies.

While the effectiveness of fire sprinkler systems is well established, the major impediment to their widespread use has simply been their cost. Moreover, many State and local governments lack any requirements for structures to contain automatic fire sprinkler systems.

This bill would encourage businesses to install fire sprinkler systems by creating tax incentives to do so. Under the current Tax Code, assets are classified under different schedules of depreciation. The often-employed "straight-line" depreciation method uses an average deduction from year-to-year for 39 years. This legislation allows businesses to classify sprinklers under a 5-year schedule, creating a meaningful tax incentive to install automated sprinkler systems.

This legislation would save lives and prevent many tragedies. I hope my colleagues will support it, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 1567. A bill to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Department of Homeland Security Financial Accountability Act. I am joined in introducing this legislation by the distinguished Senator from Hawaii, Senator AKAKA, who serves as the ranking member of the Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, which I chair.

This bill is a companion bill to H.R. 2886 that Congressman TODD PLATTS, chairman of the Subcommittee on Government Efficiency and Financial Management, introduced in the House of Representatives on July 24, 2003. The House bill has bipartisan support from the leadership of the House Government Reform Committee, including Chairman TOM DAVIS, Ranking Minority Member HENRY WAXMAN, and the vice chairman and ranking minority member of the Subcommittee on Government Efficiency and Financial Management, MARSHA BLACKBURN and EDOLPHUS TOWNS.

The purpose of this bill is to ensure that the Department of Homeland Security is included in the Chief Financial Officers Act of 1990, as amended, and is subject to the same audit requirements that currently apply to over 100 Federal agencies.

Improving financial management in the Federal Government to eliminate waste, fraud, and abuse, has long been a priority for me. The Chief Financial Officers Act (CFO Act) is regarded as one of the most important statutes that contributes significantly towards accomplishing this objective. The original CFO Act required 24 Federal agencies to submit audited financial statements to the Office of Management and Budget (OMB) and the Congress, thereby improving the accountability of Federal agencies to the taxpayer. In the 107th Congress I sponsored the Accountability of Tax Dol-

lars Act that extended this audit requirement to all Federal agencies with budgets over \$25 million, unless the Office of Management and Budget provided a waiver from the requirement. President Bush signed the Accountability of Tax Dollars Act into law on November 7, 2002, as Public Law 107-289.

As my colleagues may know, an auditor may certify a financial statement as unqualified, also known as a clean audit, or as unqualified. An unqualified opinion means that an agency's financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the agency. A qualified opinion contains an exception to the standard opinion, but the exception is not of sufficient magnitude to invalidate the statement as a whole. Finally, an agency may also receive a disclaimer of opinion. A disclaimer is the worst case because it indicates that the agency's accounts are in such disorder that the auditor is not in a position to make any certification.

This past year we have seen dramatic improvement by Federal agencies regarding their financial reporting and audit compliance. In February 2003, the Office of Management and Budget announced that a record 21 of the 24 CFO Act agencies submitted unqualified financial audits, including for the first time the Agriculture Department. As a member of the Senate Committee on Agriculture, Nutrition, and Forestry, I raised the issue of financial management with Secretary Ann Veneman at her nomination hearing on January 18, 2001, and stressed the importance of unqualified opinions. I was, therefore, pleased to see that the USDA received its first unqualified opinion this year, demonstrating remarkable improvement in the department's financial management.

I also discussed financial management recently with the Department of Homeland Security, Secretary Tom Ridge, when he testified before the Government Affairs Committee on May 1, 2003. At that time, Secretary Ridge assured me that financial management is a top priority for the Department, and every effort will be made to comply with the provisions of the CFO Act. While Secretary Ridge and the Office of Management and Budget have demonstrated their commitment to financial accountability, the bill I am introducing today will ensure that future secretaries and future administrations also will comply with the CFO Act.

The legislation I propose will ensure that the Department of Homeland Security is subject to the same financial management requirements as all other cabinet departments by accomplishing the following: It will include the Department in the list of agencies covered by the CFO Act, and make necessary adjustments to the Homeland Security Act of 2002 so that it is consistent with the provisions of the CFO Act; it will ensure that the Chief Fi-

ancial Officer at the Department of Homeland Security is subject to the same requirements as all other similarly situated CFOs in cabinet-level departments by providing that the CFO is nominated by the President and confirmed by the Senate; it will require the CFO at the Department of Homeland Security to report directly to the Secretary and be a part of the statutorily created CFO Council; and it will require the Department of Homeland Security to include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting.

Application of the Chief Financial Officers Act to the Department of Homeland Security is essential to ensure that effective financial management and reporting requirements are adhered to by the newest, and one of the largest, cabinet-level departments in the Federal Government. The Department of Homeland Security is in the process of integrating 22 agencies, many with disparate financial systems and a number with their own CFOs. Inclusion of the Department within the management requirements of the CFO Act will help ensure that the financial process is properly managed by requiring full financial disclosure of the Department's financial activities. Therefore, I urge my colleagues to support passage of this bill to protect against financial waste, fraud, and abuse within the Department of Homeland Security.

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

There being no objection, the text of the bill was ordered to be printed in the RECORD.

S. 1567

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 "Department of Homeland Security Financial Accountability Act".

SEC. 2. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security."

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of

a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

“(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.”; and

(B) in section 702 (6 U.S.C. 342) by striking “shall report” and all that follows through the period and inserting “shall perform functions as specified in chapter 9 of title 31, United States Code.”.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

SEC. 3. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 3516 of title 31, United States Code, is amended by adding at the end the following:

“(f) The Secretary of Homeland Security—
“(1) shall submit for fiscal year 2004, and for each subsequent fiscal year, a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

“(2) shall include in each performance and accountability report an audit opinion of the Department’s internal controls over its financial reporting.”.

Mr. AKAKA. Mr. President. As the ranking member of the Subcommittee on Financial Management, the Budget, and International Security, I am honored to work with my colleague Senator FITZGERALD, Chairman of the Subcommittee, to introduce the “Department of Homeland Security Financial Accountability Act.”

Our bill would add the Department of Homeland Security (DHS) to the Chief Financial Officers Act of 1990 (CFO Act), P.L. 101-576. It is a companion measure to bipartisan legislation, H.R. 2886, introduced in the House on July 24, 2003. Adding DHS would ensure that Congress will have timely and accurate financial information imperative for good governance of the resources of the Department entrusted to making our homeland safe.

The CFO Act recognizes the responsibility of governmental agencies to be accountable to taxpayers. This bill would require the President to appoint, subject to Senate confirmation, a Chief Financial Officer for DHS, who would report directly to the Director of the Department regarding financial management matters. It also requires the DHS CFO to be a member of the CFO Council. This Council is charged with advising and coordinating the activities of its members’ agencies on such matters as consolidation and modernization of financial systems, improved quality of financial informa-

tion, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matters. In addition, the bill would require the DHS CFO to prepare and provide for audit, annual financial statements that are submitted to Congress, which will aid in congressional oversight of the Department.

Although the DHS bill adopted by the Governmental Affairs Committee last year, S. 2452, would have put the new Department under the CFO Act, the enacted version of the bill, P.L. 107-296, did not. All other Federal departments and major agencies are under the requirements of the Act. Since the passage of the CFO Act in 1990, tremendous improvements have been made in agency financial management. For example, all CFO Act agencies, except for the Department of Defense and the Agency for International Development, achieved clean opinions from their auditors on their financial statements in fiscal year 2003. Initially, none of the agencies were able to do so. Also, the General Accounting Office has reported that the number and severity of internal control problems reported for CFO Act agencies have been significantly reduced. We expect good corporate governance from the private sector; we should also expect good governance from federal agencies.

Adding DHS to the CFO Act would also require that it meet the requirements of the Federal Financial Management Improvement Act of 1996 (FFMIA), P.L. 104-208, which mandates that all agencies subject to the CFO Act meet certain financial system conditions. The goal of FFMIA is for agencies to have systems that provide reliable financial information available for day-to-day management.

It is our responsibility to ensure the Federal Government is accountable to the American taxpayers. I am pleased to join with the Chairman of our Subcommittee to ensure that DHS has the financial management systems and practices in place to provide meaningful and timely information needed for effective and efficient management decision-making.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. SMITH, Mr. LOTT, and Ms. SNOWE):

S. 1568. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

Mr. HATCH. Mr. President, along with my good friends and colleagues, Senators BREAUX, SMITH, LOTT, and SNOWE, I rise today to introduce the Real Estate Investment Trust Improvement Act of 2003. This legislation would update the tax rules governing real estate investment trusts, commonly referred to as REITs, by making a number of minor but important changes to remove uncertainties in the law and improve their investment cli-

mate. Identical legislation has been introduced in the House of Representatives.

REITs are publicly traded real estate companies that pass through their earnings to individual shareholders. Congress originally created REITs in 1960 to enable small investors to make investments in large-scale, income producing real estate. By doing so, Congress made commercial real estate more accessible, more liquid, more transparent, and more attuned to investor interests. REITs have evolved to own properties across the country, including office buildings, apartments, shopping centers, and warehouses. As a result, these entities play a key role in helping our economy move forward by promoting investment and creating jobs.

The Internal Revenue Code includes detailed rules governing the operations of REITs, the types of income they can earn, and the assets they hold. Congress last amended these provisions in 1999. The REIT Improvement Act is the product of almost two years of discussions with the staffs of the Treasury Department and the Joint Committee on Taxation on how to find solutions to several thorny problem areas where the rules are in need of clarification or modification.

The REIT Improvement Act includes three titles: Title I—REIT Corrections; Title II—FIRPTA Corrections; and Title III—REIT Savings.

Title I includes several corrections to the REIT tax rules to remove some uncertainties and provide corrections largely arising from enactment of the REIT Modernization Act in 1999. Although these provisions have very little effect on revenue to the Treasury, they are of considerable importance to REITs because they remove uncertainties that interfere with the efficient operation of their businesses.

Because publicly-held REITs have to report quarterly to the Securities and Exchange Commission that they are in compliance with the specialized income and asset tests applicable to REITs, the uncertain application of these tax rules creates greater difficulties in REIT business operators than unclear tax rules generally do for other corporations.

The most important, time-sensitive provision in this title deals with what is called the “straight debt” rule. This rule, which was adopted in the REIT Modernization Act of 1999, prohibits REITs from owning more than 10 percent of the value of any other entity’s securities. Although this rule was intended to prevent REITs from owning more than 10 percent of the equity of another corporation, as drafted the rules potentially apply to many situations when individuals and businesses owe some sort of debt, “security” defined broadly, to a REIT.

There are many situations in which REITs make non-abusive, ordinary loans in the course of business for which they could face loss of REIT status because the loans do not qualify as

“straight debt.” The most common context for this situation is in the REIT’s relationship with its tenants. For example, the REIT might lend the tenant money for leasehold improvements. In some circumstances such a loan could represent more than 10 percent of the tenant’s total debt obligations. In such a case, although the amount owed could be small, it could lead to REIT disqualification. The bill we are introducing today would exempt from the 10 percent rule certain categories of loans that are non-abusive and present little or no opportunity for the REIT to participate in the profits of the issuer’s business. This includes any loan from a REIT to an individual or to a government, and any debt arising from a real property rent arrangement.

Other provisions in this title clarify the related party rent rules that limit the amount of space a taxable subsidiary may lease from its parent REIT, update the hedging definitions in the REIT rules, remove a safe harbor protection for a taxable subsidiary providing customary services to a REIT’s tenants, and restore a formula for imposing a tax on REITs that fail to meet the 95 percent gross income test.

Finally, the bill would modify a safe harbor to the prohibited transaction rule that imposes a 100 percent tax on the income REITs earn from sales of “dealer property.” Currently, the safe harbor is limited to sales of property held for the production of rental income that meet a series of tests. The change proposed in this title would extend the safe harbor to other REIT property, not just that held for the production of rental income.

Title II of the bill would modify the Foreign Investment in Real Property Tax Act (“FIRPTA”) to remove barriers to foreign investment in REITs. Today, there is very little foreign investment in REITs. We understand that U.S. money managers routinely receive assignments to place foreign investment capital in the United States under which they have complete discretion to invest in any U.S. stocks except REITs. The reason they are expressly told to avoid REITs is that under FIRPTA, foreign investors that receive REIT capital gains distributions are treated as doing business in the United States.

Title II would modify the FIRPTA rules so that a publicly traded REIT’s payment of capital gains dividends to a foreign portfolio investor would no longer cause the REIT investor to be considered doing business in the United States. The effect of this would be to threat investments in REITs like investment in other corporations, and the provision would parallel current law governing a portfolio investor’s sale of REIT stock.

Title III of our bill, REIT Savings, would modify a number so-called “death trap” provisions in the REIT tax rules that result in the disqualification of the REIT if various rules

are not met. The loss of REIT status would be a catastrophic occurrence that the management of a REIT tries to avoid at all costs, so much so that they expend significant resources to put in place compliance measures to avoid such a result. A better, simpler alternative would be to build in some flexibility to the REIT tax rules and impose monetary penalties, in lieu of REIT disqualification, for the failure to meet these strict rules that lead to REIT disqualification.

For example, under current law, a REIT is disqualified if more than 5 percent of its assets are comprised of the securities of any entity, or if it owns more than 10 percent of the voting power or value of any entity. In lieu of disqualification of the REIT status for violations of these rules, our bill would first give REITs an opportunity to comply with the asset tests with respect to any violation that does not exceed 1 percent of their total assets. Assets in excess of the 1 percent de minimis amount would be subject to a tax of the greater of \$50,000 or the highest corporate tax rate multiplied by the net income from the assets if the violation was justified by reasonable cause.

Under current law, a REIT is disqualified if it does not meet certain other tests relating to its organizational structure, the distribution of its income, its annual elections to the IRS, the transferability of its shares, and other requirements. In lieu of this disqualification, Title III would change the law, assess a monetary penalty of \$50,000 for each reasonable cause failure to satisfy these rules. This is a much more reasonable solution.

These changes are similar to “intermediate sanctions” legislation that Congress approved a few years ago dealing with nonprofit organizations. That legislation imposed monetary penalties on nonprofit organizations for violation of certain tax rules in lieu of a devastating loss of the organizations’ tax-exempt status. Those changes, like the ones we are proposing today, recognize that it is far more likely that an entity will be sanctioned under a penalty regime than under draconian rules that entirely disqualify the organization.

The REIT Improvement Act would provide reasonable and much needed reforms to the rules governing a key component of our economy. We urge our colleagues to join with us in sponsoring this legislation and supporting its inclusion in tax legislation heading for passage this year.

Mr. BREAUX. Mr. President, I am pleased to join my colleague, Senator HATCH in the introduction of the REIT Improvement Act of 2003. Through this legislation we hope to remove a number of uncertainties in the tax laws that hinder the management of REITs, and to improve the investment climate for REITs, particularly with respect to their ability to attract foreign capital.

Real estate investment trusts (“REITs”) were created by Congress in

1960 as a means of enabling small investors to invest in real estate through professionally managed companies. While REITs remained a very small sector of the real estate industry for many years—primarily as mortgage owning companies—with the enactment of tax reform in 1986, and the collapse of the real estate markets in the late 1980s—the REIT structure rapidly grew in the 1990s as an attractive means of owning real estate. Unlike the traditional form of real estate ownership, REITs are publicly traded corporations that go to the public capital markets to raise capital for their operations. Today, REITs are corporations or business trusts that combine the capital of many investors to own, operate or finance income-producing real estate, such as apartments, storage facilities, hotels, shopping centers, offices, and warehouses.

Because REITs are publicly traded corporations that must show results to the financial markets, the REIT structure injects better market discipline into the real estate sector. This minimizes the wild valuation swings that have characterized the real estate sector in the past. It also limits the exposure of federally insured depository institutions that have been traditional lenders to private real estate companies.

The legislation that we are introducing today, the REIT Improvement Act of 2003 (RIA), has three objectives. Number one, to make a number of minor corrections in the REIT tax rules, including most importantly fixing an unintended problem arising from the REIT Modernization Act of 1999 that now causes a company to lose its REIT status by holding ordinary debt, e.g., a loan to a small tenant to finance tenant improvements.

Number two, to eliminate a major barrier to foreign investment in publicly traded REITs that now treats portfolio investors as doing business in the U.S. merely because they receive REIT capital gains distributions. The change would parallel the existing Tax Code rule for a foreigner’s sale of a publicly traded REIT’s stock.

Number three, to replace the penalty for reasonable cause violations of REIT tests from a loss of REIT status to a monetary penalty. This is similar to a test that was enacted as part of the REIT Simplification Act of 1977, as well as “intermediate sanction” legislation Congress passed a few years ago for tax-exempt organizations.

Twenty-nine members of the Ways and Means Committee are cosponsoring identical legislation in the House of Representatives, H.R. 1890. I expect we will eventually have similar support for this legislation in the Senate Finance Committee. I invite my colleagues to join us as cosponsors of this legislation in the weeks ahead.

By Mr. AKAKA:

S. 1569. A bill to amend title IV of the Employee Retirement Income Security

Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise today to introduce the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act to ensure fair treatment of commercial airline pilot retirees. This bill will lower the age requirement to receive the maximum pension benefits allowed by Pension Benefit Guaranty Corporation (PBGC) to age 60 for pilots, who are mandated by the Federal Aviation Administration (FAA) to retire before age 65. With the airline industry experiencing severe financial distress, we need to enact this legislation to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. This bill will slightly alter Title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to take into account the fact that the pilots are required to retire at the age of 60 when calculating their benefits.

The Pension Benefit Guaranty Corporation was established to ensure that workers with defined benefit pension plans are able to receive some portion of their retirement income in cases where the employer does not have enough money to pay for all of the benefits owed. After the employer proves to the PBGC that the business is financially unable to support the plan, the PBGC takes over the plan as a trustee and ensures that the current and future retirees receive their pension benefits within the legal limits. Four of the ten largest claims in PBGC's history have been for airline pension plans. Although airline employees account for only two percent of participants historically covered by PBGC, they have constituted approximately 17 percent of claims. For example, Eastern Airlines, Pan American, Trans World Airlines, and US Airways have terminated their pension plans and their retirees rely on the PBGC for their basic pension benefits.

The FAA requires commercial aviation pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the PBGC because they are required to retire before the age of 65. Herein lies the problem. Mr. President, if pilots want to work beyond the age 60, they have to request a waiver from the FAA. It is my understanding that the FAA does not grant many of these waivers. Therefore, most of the pilots, if not all, do not receive the maximum pension guarantee because they are forced to retire at age 60.

The maximum guaranteed pension at the age of 65 for plans that terminate in 2003 is \$43,977.24. However, the maximum

pension guarantee for a retiree is decreased if a participant retires at the age of 60 to \$28,585.20. This significant reduction in benefits puts pilots in a difficult position. Their pensions have been reduced significantly and they are prohibited from reentering their profession due to the mandatory retirement age. They are unable to go back to their former jobs.

It is my sincere hope that existing airlines are able to maintain their pension programs and that the change this bill makes will not be needed for any additional airline pension programs. However, due to the difficult financial conditions of many of the airlines, I feel that we must enact this protective measure. My legislation ensures that pilots are able to obtain the maximum PBGC benefit without being unfairly penalized for having to retire at 60, if their pension plan is terminated.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 "Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act".

SEC. 2. AGE REQUIREMENT FOR EMPLOYEES.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65."

(b) MULTIPLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322B(a)) is amended by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to benefits payable on or after the date of enactment of this Act.

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

S. 1570. A bill to amend the Internal Revenue Code, of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs; to the Committee on Finance.

Mr. SANTORUM. Mr. President I rise to join my colleague Senator LINDSEY GRAHAM in reintroducing the Fair Care for the Uninsured Act, legislation aimed at ensuring that all Americans, regardless of income, have a basic level of resources to purchase health insurance. I am pleased that Congressman MARK KENNEDY of Minnesota has joined in introducing companion legislation in the House of Representatives that now has 120 bipartisan cosponsors.

As we all know, the growing ranks of uninsured Americans—currently more than 40 million—remains a major national problem that must be addressed as Congress considers improvements to our healthcare delivery system.

An Urban Institute study released earlier this year estimated that the nation annually spends about \$35 billion on uncompensated care received by the uninsured, both those who are uninsured for a full year and those who lack coverage for part of a year. About two-thirds of uncompensated care, almost \$24 billion, is provided by hospitals caring for uninsured people in emergency rooms, outpatient departments, and as inpatients. This study also estimated that a substantial portion of uncompensated care, perhaps as much as \$30 billion, is already being financed by taxpayers through programs such as: Medicare and Medicaid Disproportionate Share Payments; Medicaid Upper Payment Limit payments; state and local tax appropriations, primarily to public hospitals and clinics; federal grants to community health centers, and federal direct care provided by the Department of Veterans Affairs and the Indian Health Service.

These sobering statistics reveal that the price of being uninsured is very high, and they ought to serve as a catalyst for us to address the problem of uninsured Americans in a deliberate yet responsible fashion.

The Fair Care for the Uninsured Act represents a major step toward helping the uninsured obtain health insurance coverage through the creation of a new refundable tax credit for the purchase of private health insurance, a concept which again, enjoys bipartisan support.

This legislation directly addresses one of the main barriers now inhibiting access to health insurance for millions of Americans: discrimination in the tax code. Most Americans obtain health insurance through their place of work, and for good reason: workers receive their employer's contribution toward health insurance completely free from federal taxation, including payroll taxes. The Federal Government effectively subsidizes employer-provided health insurance to the tune of more than \$80 billion per year. By contrast, individuals who purchase their own health insurance get virtually no tax relief. They must buy insurance with after-tax dollars, forcing many to earn twice as much income before taxes in order to purchase the same insurance. This hidden health tax penalty effectively punishes people who try to buy their insurance outside the workplace.

The Fair Care for the Uninsured Act would remedy his situation by creating a parallel system for working families who do not have access to health insurance through the workplace. Specifically, this legislation creates a refundable tax credit of \$1,000 per adult and up to \$3,000 per family, indexed for inflation, for the purchase of private health insurance; would be available to individuals and families who don't have access to coverage through the workplace or a federal government program; enables individuals to use their credit to shop for a basic plan that best suits their needs and which would be portable from job to job; and allows individuals to buy more generous coverage with after-tax dollars. And of course the States could supplement the credit.

I would like to apprise our colleagues of one improvement in particular which we have added to last session's bill that we believe will help bring about an even more positive impact on America's uninsured population. In an effort to keep premiums affordable for older, sicker Americans, our Fair Care legislation augments funding provided in the Trade Act of 2002, P.L. 107-210, to State-run safety net insurance programs, currently operating in 30 States, and encourages more States to establish these important programs. And, as in our legislation last session of Congress, we seek to help further reduce premiums by permitting the creation of Individual Membership Associations, through which individuals can obtain basic coverage free of costly state benefit mandates.

This legislation complements a bipartisan consensus which is emerging around this means for addressing the serious problem of uninsured Americans: Instead of creating new government entitlements to medical services, tax credits provide public financing to help uninsured Americans buy private health insurance. President Bush has proposed a similar tax credit for health insurance coverage, and Congress has already acknowledged the promise of this idea in passing into law the new Health Coverage Tax Credit, which helps folks who are eligible to receive Trade Adjustment Assistance or pension benefit payments from the Pension Benefit Guaranty Corporation. Some 200,000 people across the country who meet eligibility requirements—nearly 200,000 of whom reside in the Commonwealth of Pennsylvania—now can obtain a tax credit covering 65 percent of qualified health insurance premiums. They can get this assistance in two ways. First, they can claim it on their tax forms in a lump sum next year on April 15th. Or, beginning in August, the Health Coverage Tax Credit program will allow eligible individuals and their families to directly apply the credit to their health insurance premiums every month. This advance payment option could make a big difference for families that are just getting by month-to-month or week-to-week.

In reducing the amount of uncompensated care that is offset through cost shifting to private insurance plans, and in substantially increasing the insurance base, a health insurance tax credit will help relieve some of the spiraling costs of our health care delivery system. It would also encourage insurance companies to write policies geared to the size of the credit, thus offering more options and making it possible for low-income families to obtain coverage without paying much more than the available credits.

It is time that we reduced the tax bias against families who do not have access to coverage through their place of work or existing government programs, and to encourage the creation of an effective market for family-selected and family-owned plans, where Americans have more choice and control over their health care dollars. The Fair Care for the Uninsured Act would create tax fairness where currently none exists by requiring that all Americans receive the same tax encouragement to purchase health insurance, regardless of employment.

It is my hope that our colleagues will join Senator GRAHAM and me in endorsing this legislation to provide people who purchase health insurance on their own similar tax treatment as those who have access to insurance through their employer.

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. 1570

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 "Fair Care for the Uninsured Act of 2003".

TITLE I—REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE

SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COSTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the amount paid during the taxable year for qualified health insurance for the taxpayer, his spouse, and dependents.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year for each individual referred to in subsection (a) for whom the taxpayer paid during the taxable year any amount for coverage under qualified health insurance.

"(2) MONTHLY LIMITATIONS.—

"(A) IN GENERAL.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to 1/12 of—

"(i) \$1,000 if such individual is the taxpayer,

"(ii) \$1,000 if—

"(I) such individual is the spouse of the taxpayer,

"(II) the taxpayer and such spouse are married as of the first day of such month, and

"(III) the taxpayer files a joint return for the taxable year, and

"(iii) \$500 if such individual is an individual for whom a deduction under section 151(c) is allowable to the taxpayer for such taxable year.

"(B) LIMITATION TO 2 DEPENDENTS.—Not more than 2 individuals may be taken into account by the taxpayer under subparagraph (A)(iii).

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of an individual—

"(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

"(ii) who does not live apart from such individual's spouse at all times during the taxable year, the limitation imposed by subparagraph (B) shall be divided equally between the individual and the individual's spouse unless they agree on a different division.

"(3) COVERAGE MONTH.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

"(i) as of the first day of such month such individual is covered by qualified health insurance, and

"(ii) the premium for coverage under such insurance for such month is paid by the taxpayer.

"(B) EMPLOYER-SUBSIDIZED COVERAGE.—

"(i) IN GENERAL.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(l)(2)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(ii) PREMIUMS TO NONSUBSIDIZED PLANS.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

"(C) CAFETERIA PLAN AND FLEXIBLE SPENDING ACCOUNT BENEFICIARIES.—Such term shall not include any month during a taxable year if any amount is not includable in the gross income of the taxpayer for such year under section 106 with respect to—

"(i) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

"(ii) a benefit provided under a flexible spending or similar arrangement.

"(D) MEDICARE AND MEDICAID.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

"(i) is entitled to any benefits under title XVIII of the Social Security Act, or

"(ii) is a participant in the program under title XIX or XXI of such Act.

"(E) CERTAIN OTHER COVERAGE.—Such term shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

"(i) chapter 89 of title 5, United States Code,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code, or

"(iv) any medical care program under the Indian Health Care Improvement Act.

“(F) PRISONERS.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(G) INSUFFICIENT PRESENCE IN UNITED STATES.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

“(4) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

“(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means insurance which constitutes medical care as defined in section 213(d) without regard to—

“(A) paragraph (1)(C) thereof, and

“(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

“(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

“(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—

“(1) IN GENERAL.—If a deduction would (but for paragraph (2)) be allowed under section 220 to the taxpayer for a payment for the taxable year to the medical savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

“(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 for that portion of the payments otherwise allowable as a deduction under section 220 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

“(e) SPECIAL RULES.—

“(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

“(2) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2004, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) 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.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$50 (\$25 in the case of the dollar amount in subsection (b)(2)(A)(iii)).”

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning trans-

actions with other persons) is amended by adding at the end the following new section:

“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

“(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

“(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

“(C) such other information as the Secretary may reasonably prescribe.

“(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term ‘creditable health insurance’ means qualified health insurance (as defined in section 36(c)) other than—

“(1) insurance under a subsidized group health plan maintained by an employer, or

“(2) to the extent provided in regulations prescribed by the Secretary, any other insurance covering an individual if no credit is allowable under section 36 with respect to such coverage.

“(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

“(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

“(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).”

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xviii) as clauses (xii) through (xix), respectively, and by inserting after clause (x) the following new clause:

“(xi) section 6050U (relating to returns relating to payments for qualified health insurance).”

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB) and inserting “, or”, and by adding at the end the following new subparagraph:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).”

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

“Sec. 36. Health insurance costs.

“Sec. 37. Overpayments of tax.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

“SEC 7528. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

“(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the provider of such individual’s qualified health insurance equal to such individual’s qualified health insurance credit advance amount with respect to such provider.

“(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means any individual—

“(1) who purchases qualified health insurance (as defined in section 36(c)), and

“(2) for whom a qualified health insurance credit eligibility certificate is in effect.

“(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to the Secretary which—

“(1) certifies that the individual will be eligible to receive the credit provided by section 36 for the taxable year,

“(2) estimates the amount of such credit for such taxable year, and

“(3) provides such other information as the Secretary may require for purposes of this section.

“(d) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term ‘qualified health insurance credit advance amount’ means, with respect to any provider of qualified health insurance, the Secretary’s estimate of the amount of credit allowable under section 36 to the individual for the taxable year which is attributable to the insurance provided to the individual by such provider.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

“Sec. 7528. Advance payment of health insurance credit for purchasers of qualified health insurance.”.

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

TITLE II—STATE HIGH RISK HEALTH INSURANCE POOLS

SEC. 201. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745(c)(2) of the Public Health Service Act, as inserted by section 201 of the Trade Act of 2002 (Public Law 107-210), is amended—

(1) in subsection (b)(1), by striking “established a qualified health risk pool that” and all that follows through the end of subparagraph (C) and inserting “established a qualified health risk pool that provides for premium rates and covered benefits for such coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals”;

(2) in subsection (b)(2), by striking “number of uninsured individuals” and inserting “enrollees in qualified high risk pools”; and

(3) in subsection (c)(2), by striking “\$40,000,000 for each of fiscal years 2003 and 2004” and inserting “\$40,000,000 for fiscal year 2003 and \$75,000,000 for each of fiscal years 2004 through 2009”.

TITLE III—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

SEC. 301. EXPANSION OF ACCESS AND CHOICE THROUGH INDIVIDUAL MEMBERSHIP ASSOCIATIONS (IMAs).

The Public Health Service Act is amended by adding at the end the following new title:

“TITLE XXIX—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

“SEC. 2901. DEFINITION OF INDIVIDUAL MEMBERSHIP ASSOCIATION (IMA).

“(a) IN GENERAL.—For purposes of this title, the terms ‘individual membership association’ and ‘IMA’ mean a legal entity that meets the following requirements:

“(1) ORGANIZATION.—The IMA is an organization operated under the direction of an association (as defined in section 2904(1)).

“(2) OFFERING HEALTH BENEFITS COVERAGE.—

“(A) DIFFERENT GROUPS.—The IMA, in conjunction with those health insurance issuers that offer health benefits coverage through the IMA, makes available health benefits coverage in the manner described in subsection (b) to all members of the IMA and the dependents of such members in the manner described in subsection (c)(2) at rates that are established by the health insurance issuer or a policy or product specific basis and that may vary only as permissible under State law.

“(B) NONDISCRIMINATION IN COVERAGE OFFERED.—

“(i) IN GENERAL.—Subject to clause (ii), the IMA may not offer health benefits coverage to a member of an IMA unless the same coverage is offered to all such members of the IMA.

“(ii) CONSTRUCTION.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law, or preventing a health insurance issuer from excluding or limiting the coverage on any individual, subject to the requirement of section 2741.

“(C) NO FINANCIAL UNDERWRITING.—The IMA provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

“(3) GEOGRAPHIC AREAS.—Nothing in this title shall be construed as preventing the es-

tablishment and operation of more than one IMA in a geographic area or as limiting the number of IMAs that may operate in any area.

“(4) PROVISION OF ADMINISTRATIVE SERVICES TO PURCHASERS.—

“(A) IN GENERAL.—The IMA may provide administrative services for members. Such services may include accounting, billing, and enrollment information.

“(B) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing an IMA from serving as an administrative service organization to any entity

“(5) FILING INFORMATION.—The IMA files with the Secretary information that demonstrates the IMA’s compliance with the applicable requirements of this title.

“(b) HEALTH BENEFITS COVERAGE REQUIREMENTS.—

“(1) COMPLIANCE WITH CONSUMER PROTECTION REQUIREMENTS.—Any health benefits coverage offered through an IMA shall—

“(A) be underwritten by a health insurance issuer that—

“(i) is licensed (or otherwise regulated) under State law,

“(ii) meets all applicable State standards relating to consumer protection, subject to section 2902(2), and

“(iii) offers the coverage under a contract with the IMA; and

“(B) subject to paragraph (2) and section 2902(2), be approved or otherwise permitted to be offered under State law.

“(2) EXAMPLES OF TYPES OF COVERAGE.—The benefits coverage made available through an IMA may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

“(A) Coverage through a health maintenance organization.

“(B) Coverage in connection with a preferred provider organization.

“(C) Coverage in connection with a licensed provider-sponsored organization.

“(D) Indemnity coverage through an insurance company.

“(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

“(F) Coverage that includes a point-of-service option.

“(G) Any combination of such types of coverage.

“(3) HEALTH INSURANCE COVERAGE OPTIONS.—An IMA shall include a minimum of 2 health insurance coverage options. At least 1 option shall meet all applicable State benefit mandates.

“(4) WELLNESS BONUSES FOR HEALTH PROMOTION.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through an IMA from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the IMA and comply with all other provisions of this title and do not discriminate among similarly situated members.

“(c) MEMBERS; HEALTH INSURANCE ISSUERS.—

“(1) MEMBERS.—

“(A) IN GENERAL.—Under rules established to carry out this title, with respect to an individual who is a member of an IMA, the individual may apply for health benefits coverage (including coverage for dependents of such individual) offered by a health insurance issuer through the IMA.

“(B) RULES FOR ENROLLMENT.—Nothing in this paragraph shall preclude an IMA from establishing rules of enrollment and re-

enrollment of members. Such rules shall be applied consistently to all members within the IMA and shall not be based in any manner on health status-related factors.

“(2) HEALTH INSURANCE ISSUERS.—The contract between an IMA and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the IMA, for the payment of the premiums collected by the issuer.

“SEC. 2902. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

“State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through an IMA:

“(1) Benefit requirements for health benefits coverage offered through an IMA, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

“(2) Any other requirement (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through an IMA, if the IMA meets the requirements of this title.

Any State law or regulation relating to the composition or organization of an IMA is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

“SEC. 2903. ADMINISTRATION.

“(a) IN GENERAL.—The Secretary shall administer this title and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The Secretary shall incorporate the process of ‘deemed file and use’ with respect to the information filed under section 2901(a)(5)(A) and shall determine whether information filed by an IMA demonstrates compliance with the applicable requirements of this title. The Secretary shall exercise authority under this title in a manner that fosters and promotes the development of IMAs in order to improve access to health care coverage and services.

“(b) PERIODIC REPORTS.—The Secretary shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the Secretary to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. The Secretary may provide for the production of such reports through one or more contracts with appropriate private entities.

“SEC. 2904. DEFINITIONS.

“For purposes of this title:

“(1) ASSOCIATION.—The term ‘association’ means, with respect to health insurance coverage offered in a State, an association which—

“(A) has been actively in existence for at least 5 years;

“(B) has been formed and maintained in good faith for purposes other than obtaining insurance;

“(C) does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee); and

“(D) does not make health insurance coverage offered through the association available other than in connection with a member of the association.

“(2) DEPENDENT.—The term ‘dependent’, as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meaning applied to such term with respect to such coverage under the laws of the State relating to such coverage and such an issuer. Such term may include the spouse and children of the individual involved.

“(3) HEALTH BENEFITS COVERAGE.—The term ‘health benefits coverage’ has the meaning given the term health insurance coverage in section 2791(b)(1).

“(4) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning given such term in section 2791(b)(2).

“(5) HEALTH STATUS-RELATED FACTOR.—The term ‘health status-related factor’ has the meaning given such term in section 2791(d)(9).

“(6) IMA; INDIVIDUAL MEMBERSHIP ASSOCIATION.—The terms ‘IMA’ and ‘individual membership association’ are defined in section 2901(a).

“(7) MEMBER.—The term ‘member’ means, with respect to the IMA, an individual who is a member of the association to which the IMA is offering coverage.”

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 216—ESTABLISHING AS A STANDING ORDER OF THE SENATE A REQUIREMENT THAT A SENATOR PUBLICLY DISCLOSES A NOTICE OF INTENT TO OBJECT TO PROCEEDING TO ANY MEASURE OR MATTER

Mr. LOTT (for himself, Mr. BYRD, Mr. GRASSLEY, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 216

Resolved, That (a) the majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

(1) submits the notice of intent in writing to the appropriate leader or their designee, and

(2) submits, within 3 session days after the submission under paragraph (1), the following notice for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b):

“I, Senator ____, intend to object to proceeding to ____, dated ____.”

(b) The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled “Notices of Intent to Object to Proceeding”. Each such section shall include the name of each Senator filing a notice under subsection (a)(2), the measure or matter covered by the calendar which the Senator objects to, and the date the objection was filed.

(c) A Senator may have an item with respect to the Senator removed from a calendar to which it was added under subsection (b) by submitting the following notice for inclusion in the Congressional Record:

“I, Senator ____, do not object to proceeding to ____, dated ____.”

(d) This resolution shall apply during the portion of the 108th Congress after the date of the adoption of this resolution.

Mr. LOTT. Mr. President, today I am submitting a resolution that addresses

the issue of anonymous “holds” that Senators use to prevent consideration of legislation and nominations. I am pleased to be joined in this effort by the distinguished former Majority Leader, Senator BYRD, along with the Chairman of the Finance Committee, Senator GRASSLEY, and the distinguished Senator from Oregon, Senator WYDEN.

The resolution we are submitting today builds on the work of Senators GRASSLEY and WYDEN who have pursued this issue for years. On June 17, I chaired a hearing at the Rules Committee to consider a resolution, S. Res. 151, that Senators GRASSLEY and WYDEN introduced that would have amended the Senate’s Rules to require the publication of the names of Senators who have placed holds on legislation or nominations.

Many Senators and witnesses who testified before the Committee expressed concern about the propriety of incorporating an informal custom designed to obstruct—the hold—in the Senate’s rules. Others were concerned that there could be unintended consequences to making this permanent change in the rules of the Senate.

As a result of that hearing, I worked with the sponsors of the resolution and with Senator BYRD to develop what we believe is an appropriate way to resolve the problem of anonymous holds. The resolution we are introducing today reflects that work.

During my tenure as Majority Leader, I, along with Senator DASCHLE attempted to address the issue of secret holds. We sent a letter to all Senators and indicated that members placing holds on legislation or nominations would have to notify the sponsor of the legislation, the committee of jurisdiction, and the leaders. Unfortunately, we had no mechanism to enforce those requirements and secret holds continue to plague the Senate.

The resolution we are submitting today would place a greater responsibility on Senators to make their holds public. Our resolution creates a Standing Order that would stay in effect until the end of the 108th Congress. The Order requires that the majority and minority leaders can only recognize a hold that is provided in writing. Moreover for the hold to be honored, the Senator objecting would have to publish his objection in the CONGRESSIONAL RECORD, three days after the notice is provided to a leader.

New sections would be created in the Legislative and Executive Calendars that would identify the names of Senators with holds on particular measures and nominations. The order also provides a brief written format that a Senator must use to indicate his opposition to proceeding. In addition, a format is provided to remove a hold.

I believe that holds, whether anonymous, or publicly announced, are an affront to the Senate, the leadership, the Committees and to the individual members of this institution. As leader,

I could not establish a rational and timely agenda for the institution to perform its business without having to first consult with, effectively, every other member of the Senate.

One day, a Senator would have a hold on a bill and after I convinced him to lift the hold, the next day I was told another Senator had placed a hold on the same bill. And don’t get me wrong, these weren’t just holds from Democrats, they were holds from some of my best friends on this side of the aisle.

This Order does not eliminate the right of a Senator to place a hold. Some day, the Senate may decide that holds, in and of themselves, are an undemocratic practice that should no longer be recognized. I, for one, would consider eliminating the hold, by for example, limiting debate on the motion to proceed. However, I believe before we consider such a drastic step, we should, at the very least, eliminate the secret hold and I believe this Order will achieve that goal.

Secret holds have no place in a publicly accountable institution. A measure that is important to a majority of the American public and a majority of Senators can be stopped dead in its tracks by a single Senator. And when that Senator can hide behind the anonymous hold, democracy itself is damaged.

How do you tell your constituents that legislation they have an interest in, legislation that has been approved by the majority of a committee, is stalled and you don’t know who is holding it up? What does that say about this institution? I think the secret hold has no place in this revered institution.

I believe that if we adopt this Resolution, the public will have greater trust in the Senate. Secrecy and anonymity in an institution of the people does not engender trust among our constituents. Holds belong in the wrestling ring, not in this hallowed chamber.

This resolution is an experiment in making the Senate and Senators more accountable. At the end of the 108th Congress, the Senate will be able to determine whether it wants to make this a permanent Standing Order or whether it wants to modify the Order. I hope my colleagues will give the Senate the opportunity to see if this approach will eliminate the secrecy surrounding holds and facilitate dialogue that breaks the logjam on legislating in this body.

I ask unanimous consent that the text a copy of the February, 1999, letter I sent with Senator DASCHLE be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 25, 1999.

DEAR COLLEAGUE: As the 106th Congress begins, we wish to clarify to all colleagues, procedures governing the use of holds during the new legislative session. All Senators should remember the Grassley and Wyden initiative, calling for a Senator to “provide