months the period for which chapter 12 of title 11 of the United States Code is reenacted.

S. 1926

At the request of Ms. STABENOW, the names of the Senator from California (Mrs. BOXER), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1926, a bill to amend title XVIII of the Social Security Act to restore the medicare program and for other purposes.

S. 1937

At the request of Mr. BAUCUS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1937, a bill to amend the Internal Revenue Code of 1986 to curtail the use of tax shelters, and for other purposes.

S. 1945

At the request of Mr. MCCAIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1946

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1946, a bill to establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

S. 1950

At the request of Mr. DURBIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1950, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. CON. RES. 82

At the request of Mr. BIDEN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. SARBANES), the Senator from Mississippi (Mr. LOTT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nebraska (Mr. HAGEL), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. FITZGERALD), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Con. Res. 82, a concurrent resolution recognizing the importance of Ralph Bunche as one of the great leaders of the United States, the first African-American Nobel Peace Prize winner, an accomplished scholar, a distinguished diplomat, and a tireless campaigner of civil rights for people throughout the world.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

S. RES. 273

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. Res. 273, a resolution condemning the terrorist attacks in Istanbul, Turkey, on November 15 and 20, 2003, expressing condolences to the families of the individuals murdered in the attacks, expressing sympathies to the individuals injured in the attacks, and expressing solidarity with the Republic of Turkey and the United Kingdom in the fight against terrorism.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 1952. A bill to direct the United States Trade Representative to enforce Special Agent rights, under certain trade agreements with respect to Mexico, pursuant to title III of the Trade Act of 1974; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce the Mexican Agricultural Trade Compliance Act. This bill directs the U.S. Trade Representative to retaliate against Mexico over that country's de facto prohibition on the importation of U.S.-produced high fructose corn syrup.

I introduce this bill reluctantly. For months I have made it clear, through letters, floor statements, a hearing, and a trade roundtable, that if the Mexican Congress did not lift its illegal 20 percent tax on soft drinks containing high fructose corn syrup, I would be forced to consider introducing retaliatory legislation, such as this ''tequila tariff'' which also covers other agricultural products.

We're at the end of our legislative session and there has been no action by the Mexican Congress. So, I'm faced with no alternative but to introduce this bill.

Let me explain how we got to where we are today. Mexico was formerly the largest export market for U.S.-produced high fructose corn syrup. But since 1997, Mexico has engaged in a concerted effort to restrict U.S. imports of this product. Throughout this time, Mexico has consistently violated its NAFTA and WTO commitments.

Let me give you a short history of Mexico's unjustified actions. In February 1997, Mexico initiated an antidumping investigation of U.S. high fructose corn syrup, followed by the imposition of an antidumping order the following year. The United States challenged Mexico's antidumping order under the NAFTA. On two different occasions, NAFTA panels determined that Mexico's actions violated its NAFTA obligations.

The United States also challenged Mexico's antidumping order at the Wortd Trade Organization. On two separate occasions, the Dispute Settlement Body of the WTO held that Mexico's actions violated its international trade commitments.

But Mexico continued to ignore its NAFTA and WTO obligations. In fact, Mexico went one step further and in effect threw gasoline onto the fire. On January 1, 2002, in a transparent attempt to evade the NAFTA and WTO determinations against it, Mexico imposed a 20 percent tax on soft drinks containing high fructose corn syrup. The intent and effect of this tax was to continue Mexico's antidumping order on U.S. produced high fructose corn syrup by other means.

In April 2002, with its tax now in place, and in a continuous event with the imposition of this tax, Mexico lifted its antidumping order on high fructose corn syrup. These actions enabled Mexico to make the disingenuous claim that it had come into compliance with the findings adopted by the NAFTA and the WTO regarding its antidumping order.

The effects of the import restrictions of Mexico's antidumping order continue, with even more egregious results. Because of Mexico's tax, U.S. exports of high fructose corn syrup to Mexico are now at almost zero levels.

This is an extraordinary situation. Mexico lost under the NAFTA, and it lost at the WTO commitments, Mexico responded by imposing a de facto ban on imports of U.S. high fructose corn syrup. Mexico is not only violating its international trade commitments, but also causing significant harm for Iowa's corn farmers. Iowa's producers of high fructose corn syrup are suffering as well. I know of no other U.S. agricultural product that has been shut out of its largest export market for so long.

The United States has worked diligently, and patiently with Mexico on this issue. U.S. Trade Representative Robert Zoellick and Ambassador Allen Johnson, our Chief Agricultural Negotiator, have put in countless hours trying to convince Mexico to come into compliance with its trade obligations regarding high fructose corn syrup. But still, the tax remains in place. My colleagues on both sides of the aisle, and

in both the Senate and the House, have repeatedly contacted Mexican officials reminding them of Mexico's trade commitments with regard to this issue. But still, the tax remains in place.

I too have worked hard, since the beginning, to try to convince Mexico to lift its de facto ban on the sale of U.S.-produced high fructose corn syrup. As I have mentioned, I've written letters to Mexican officials, delivered floor speeches, conducted a Finance Committee hearing, and held an agricultural roundtable, all in an effort to convince Mexico to lift its de facto ban on imports of U.S. high fructose corn syrup. During a hearing of the Finance Committee on September 23, I stated clearly that if the Mexican tax on soft drinks containing high fructose corn syrup was not lifted—and soon—I would be forced to consider introducing retaliatory legislation. But still, the tax remains in place.

So now, at the end of our legislative session, I see no alternative but to introduce the Mexican Agricultural Trade Compliance Act.

The Mexican Agricultural Trade Compliance Act establishes that the Government of Mexico has engaged in a pattern of activity that has continuously denied the rights of U.S. exporters of high fructose corn syrup under existing trade agreements. Further, the denial of these rights is unjustifiable and burdens or restricts U.S. commerce. Therefore, Mexico's actions meet the statutory criteria under section 301 of the Trade Act of 1974 for retaliatory action.

The Mexican Agricultural Trade Compliance Act requires the U.S. Trade Representative to retaliate, pursuant to section 301, against imports from Mexico within 60 days of enactment of the Act. However, the U.S. Trade Representative shall not take such action if he certifies, within 30 days after enactment of the Act, that Mexico has eliminated its tax on soft drinks containing high fructose corn syrup and is according the U.S. high fructose corn syrup industry the benefits of all applicable trade agreements.

I fully hope that prior to the return of the U.S. Senate in January, the Mexican Congress will act rationally and bring Mexico into compliance with its international trade obligations regarding high fructose corn syrup. If it does not, I'll work hard to advance the Mexican Agricultural Trade Compliance Act through the Senate. Given the large number of unjustified barriers imposed by Mexico over the past months against imports of U.S. agricultural products, Mexico has not been earning goodwill with Members of the Senate. I expect that my legislation will receive broad support.

I also intend to work with the U.S. Trade Representative to designate Mexican products upon which retaliatory duties will be imposed. The products on this list will consist first and foremost of Mexican agricultural products that are prospering on account of their access to the U.S. market. These Mexican products will likely include bottled tequila, tomatoes, bell peppers, avocados, limes, asparagus, mangos, papayas, watermelons, honey, pecans, and shrimp and prawns. The total amount of duties imposed on these Mexican products will equal the lost sales being experienced by U.S. producers of high fructose corn syrup on account of Mexico's de facto ban of this product, an amount which—according to U.S. industry—could be as high as $465 million annually.

Let me conclude by stating that I know that some in Mexico are working constructively to try to resolve this issue. Earlier this month President Fox of Mexico sent to the Mexican Congress a formal request to repeal the tax on high fructose corn syrup. I hope that his request becomes law. I appreciated the offer of Mexico's Secretary of Agriculture, Javier Usabiaga, to speak with me regarding the tax, and I regret that our schedules have not permitted us to meet personally. I also note that U.S. and Mexican private sector representatives have been negotiating over access for U.S. high fructose corn syrup to the Mexican market.

Regardless of these efforts, Mexico's de facto ban on imports of U.S. high fructose corn syrup remains in place. Meanwhile, Iowa's corn growers and Iowa's high fructose corn syrup producers continue to suffer on account of Mexico's NAFTA and WTO illegal actions. Again, I strongly hope that Mexican legislators will remove Mexico's tax on soft drinks containing high fructose corn syrup prior to the return of the U.S. Senate next January. But if this tax is not repealed by January, I have every intention of working to advance this legislation through the Senate.

I'm a strong believer in free trade. I fought hard for passage of the NAFTA. I did so because I know free trade benefits farmers in Iowa and other states. U.S. agriculture certainly benefits from the NAFTA, as does Mexican agriculture. But Mexico has engaged in a blatantly illegal act against U.S. agriculture for too long. Mexico's action is having a particularly negative impact on my State of Iowa. If we are to maintain support for free trade in this country, we must ensure that our trading partners live up to their obligations. If they do not, we must take action. I hope the introduction of this bill sends a strong message to my Mexican counterparts that we are ready and willing to stand up for U.S. agriculture. I sincerely hope that they will do the right thing and repeal their illegal tax on high fructose corn syrup.

I hope they repeal their illegal tax to demonstrate their commitment to living up to the letter and spirit of Mexico's promises under NAFTA and the WTO. I hope they repeal their illegal tax to improve relations between the United States and Mexico and to bring the benefits of free trade to consumers and producers in both countries. And, Mr. President, I hope they repeal their illegal tax so the Mexican Agricultural Trade Compliance act is no longer needed. But, if that's what it takes, then that's what we should do.

By Mr. CAMPBELL:

S. 1955. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing the Native American Technical Corrections Act of 2004 to provide amendments to certain Federal statutes affecting Indian tribes and Indian people.

Though a modest bill, when it is enacted it will provide real relief to the affected tribes that seek Congress' help in removing the many obstacles that block the paths to greater levels of advancement.

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

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

S. 1955

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 101. National Fund for Excellence in American Indian Education.
Sec. 102. Indian Financing Act Amendment.
Sec. 103. Exchanged Indian land.
Sec. 104. Indian tribal justice technical and legal assistance.
Sec. 105. Tribal justice systems.
Sec. 106. Authorization of 99-year leases for the Prairie Band of Potawatomi.
Sec. 107. Navajo healthcare contracting.
Sec. 108. Crow Tribal Trust Fund.
Sec. 109. Fallon Paiute-Shoshone Tribe Settlement Fund.
Sec. 110. ANCSA amendment.

TITLE II—COWLITZ INDIAN TRIBE DISTRIBUTION OF JUDGMENT FUNDS ACT

Sec. 201. Cowlitz Indian Tribe Distribution of Judgment Funds Act.

Sec. 202. Definitions.
Sec. 203. Judgment distribution plan.
Sec. 204. Distribution and use of funds.
TITLE III—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.
Sec. 301. Short title.
Sec. 302. Findings and purpose.
Sec. 303. Definitions.
Sec. 304. Distribution of judgment funds.
Sec. 305. Applicable law.
TITLE IV—UTU UTU GWAITU PAIUTE INDIAN LAND TRANSFER
Sec. 401. Transfer.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 101. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

Title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

(1) by striking the title heading and inserting the following:

''TITLE V—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION'';

(2) in section 501 (25 U.S.C. 458bbb)—

(A) by striking the section heading and inserting the following:

''SEC. 501. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.'';

and

(B) in subsection (a), by striking ''the American Indian Education Foundation'' and inserting ''a foundation to be known as the 'National Fund for Excellence in American Indian Education' ''; and

(3) in section 503(2) (25 U.S.C. 458bbb–2(2)), by striking ''Foundation'' the second place it appears and inserting ''National Fund for Excellence in American Indian Education''.

SEC. 102. INDIAN FINANCING ACT AMENDMENT.

(a) LOAN GUARANTIES AND INSURANCE.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking ''the Secretary is authorized (a) to guarantee'' and inserting ''the Secretary may—

''(1) guarantee'';

(2) by striking ''members; and (b) in lieu of such guaranty, to insure'' and inserting ''members; or

''(2) to insure'';

(3) by striking ''SEC. 201. In order'' and inserting the following:

''SEC. 201. LOAN GUARANTIES AND INSURANCE.

''(a) IN GENERAL.—In order''; and

(4) by adding at the end the following:

''(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.''.

(b) LOAN APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking ''SEC. 204.'' and inserting the following:

''SEC. 204. LOAN APPROVAL.''.

SEC. 103. EXCHANGED INDIAN LAND.

Notwithstanding any other provision of law, if—

(1) any portion of the Indian country (as defined in section 1151 of title 18, United States Code) under the jurisdiction of an Indian tribe was subject to a government taking for a project that received any funding under Public Law 85–500;

(2) the Indian tribe applies for land to be taken into trust by the Federal Government; and

(3) the Secretary of the Interior accepts the land into trust on behalf of the Indian tribe;

the land shall be deemed for all purposes to have been acquired in trust as of the date of the taking.

SEC. 104. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act (25 U.S.C. 3666, 3681(d)) are amended by striking ''for fiscal years 2000 through 2004'' and inserting ''for fiscal years 2004 through 2010''.

SEC. 105. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking ''2007'' and inserting ''2010''.

SEC. 106. AUTHORIZATION OF 99-YEAR LEASES FOR THE PRAIRIE BAND OF POTAWATOMI.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence—

(1) by inserting ''the reservation of the Prairie Band Potawatomi Nation Reservation,'' after ''Spanish Grant'),''; and

(2) by inserting ''lands held in trust for the Prairie Band Potawatomi Nation,'' before ''lands held in trust for the Cherokee Nation of Oklahoma''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any lease entered into or renewed on or after the date of enactment of this Act.

SEC. 107. NAVAJO HEALTHCARE CONTRACTING.

Congress authorizes the Navajo Area Office of the Indian Health Service to reprogram contract healthcare service dollars for the Navajo Health Foundation/Sage Memorial Hospital 638 contract.

SEC. 108. CROW TRIBAL TRUST FUND.

Section 6(d) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776d(d)), is amended—

(1) in the subsection heading, by inserting ''AND CAPITAL GAINS'' after ''INTEREST'';

(2) in paragraph (1), by striking ''Only'' and inserting ''Except as provided in paragraph (4), only''; and

(3) by adding at the end the following:

''(4) DISTRIBUTION OF CAPITAL GAINS.—Notwithstanding subsection (f) or any other provision of law, capital gains and any other noninterest income received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe to the extent that the balance in the Crow Tribal Trust Fund (including capital gains) exceeds $85,000,000, for the same uses and subject to the same restrictions in paragraphs (1) and (3) as are applicable to distributions of interest.''.

SEC. 109. FALLON PAIUTE-SHOSHONE TRIBE SETTLEMENT FUND.

Section 102 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (104 Stat. 3289) is amended—

(1) In subsection (C)—

(A) in paragraph (1), by striking ''The income of the Fund may be obligated and expended only for the following purposes:'' and inserting the following: ''Notwithstanding any conflicting provision in the original Fund plan developed in consultation with the Secretary under subsection (f), during fiscal year 2004 and each subsequent fiscal year, 6 percent of the average quarterly market value of the Fund during the immediately preceding 3 fiscal years (referred to in this title as the 'Annual 6 percent Amount') may be expended or obligated only for the purposes specified in subparagraphs (a) through (f) of this section. In addition, during each fiscal year subsequent to Fund fiscal year 2004, any unexpended and unobligated portion of the Annual 6 percent Amount from any of the 3 immediately preceding Fund fiscal years subsequent to fiscal year 2003, not including any income that may accrue on that portion may also be expended or obligated only for the following purposes:''; and

(B) by striking paragraphs (2) through (4) and inserting the following:

''(2) No monies from the Fund other than the amounts authorized in subsection (C)(1) may be expended or obligated for any purpose.

''(3) Notwithstanding any conflicting provision in the original Fund plan, during fiscal year 2004 and each subsequent fiscal year, not more than 20 percent of the Annual 6 percent Amount for the fiscal year (referred to in this title as the 'Annual 1.2 percent Amount') may be expended or obligated under subsection (c)(1)(C) for per capita distributions to tribal members, provided that during each Fund fiscal year subsequent to fiscal year 2004, any unexpended and unobligated portion of the Annual 1.2 percent Amount from any of the 3 immediately preceding Fund fiscal years subsequent to fiscal year 2003, not including any income that may accrue on that portion, may also be expended or obligated for such per capita payments.''; and

(2) in subsection (D), by adding at the end the following: ''Notwithstanding any conflicting provision in the original Fund plan, the Fallon Business Council, in consultation with the Secretary, shall promptly amend the original plan for purposes of conforming the plan to this title and making nonsubstantive updates, improvements, or corrections to the original plan.''.

SEC. 110. ANCSA AMENDMENT.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

TITLE II—COWLITZ INDIAN TRIBE DISTRIBUTION OF JUDGMENT FUNDS ACT

SEC. 201. COWLITZ INDIAN TRIBE DISTRIBUTION OF JUDGMENT FUNDS ACT.

This title shall be known as the ''Cowlitz Indian Tribe Distribution of Judgment Funds Act''.

SEC. 202. DEFINITIONS.

In this title:

(1) CURRENT JUDGMENT FUND.—The term ''current judgment fund'' means the funds awarded by the Indian Claims Commission Docket No. 218 and all interest accrued on the funds as of the date of enactment of this Act.

(2) INITIAL INTEREST.—The term ''initial interest'' means the interest on the funds awarded by the Indian Claims Commission Docket No. 218 during the time period from 1 year before the date of enactment of this Act through the date of enactment of this Act.

(3) PRINCIPAL.—The term ''principal'' means the funds awarded by the Indian Claims Commission Docket No. 218 and all interest accrued on the funds as of 1 year before the date of enactment of this Act.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) TRIBE.—The term ''Tribe'' means the Cowlitzq Indian Tribe of Washington, to which the Secretary extended Federal recognition on December 31, 2001, under part 83 of title 25, Code of Federal Regulations.

(6) TRIBAL MEMBER.—The term ''tribal member'' means an individual who is an enrolled member of the Cowlitz Indian Tribe in accordance with tribal enrollment procedures and requirements.

(7) TRIBAL ELDER.—The term ''tribal elder'' means a tribal member who was 62 years of age or older as of February 14, 2000.

SEC. 203. JUDGMENT DISTRIBUTION PLAN.

Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), or any plan prepared or promulgated by the Secretary under that Act, the judgment funds awarded in Indian Claims Commission Docket No. 218 and interest accrued on those funds as of the date of enactment of this Act shall be distributed and used in accordance with this title.

SEC. 204. DISTRIBUTION AND USE OF FUNDS.

(a) PRESERVATION OF PRINCIPAL AFTER ELDERLY ASSISTANCE AND TRIBAL ADMINISTRATION PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (b), the principal shall not be distributed under this title.

(2) DISBURSEMENTS.—The Secretary shall—

(A) maintain undistributed current judgment funds in an interest-bearing account in trust for the Tribe; and

(B) disburse principal or interest in accordance with this title not later than 30 days after receipt by the Northwest Regional Director of the Bureau of Indian Affairs of a request by the Cowlitz Tribal Council for a disbursement of funds.

(b) ELDERLY ASSISTANCE PROGRAM.—

(1) SETASIDE.—From the current judgment fund, the Secretary shall set aside 20 percent for an elderly assistance payment.

(2) PAYMENTS.—The Secretary shall provide 1 elderly assistance payment to each enrolled tribal elder not later than 30 days after all of the following have occurred:

(A) LIST OF ENROLLED MEMBERS.—The Cowlitz Tribal Council has compiled and reviewed for accuracy a list of all enrolled tribal members that are both a minimum of 1/16 Cowlitz blood and 62 years of age or older as of February 14, 2000.

(B) VERIFICATION.—The Secretary has verified the blood quantum and age of the tribal members identified on the list under subparagraph (A).

(C) REQUEST FOR DISBURSEMENT.—The Cowlitz Tribal Council has made a request for disbursement of judgment funds for the elderly assistance payment.

(3) DEATH OF TRIBAL ELDER.—If a tribal elder eligible for an elderly assistance payment dies before receiving payment under this subsection, the funds that would have been paid to the tribal elder shall be added to and distributed in accordance with the emergency assistance program under subsection (c).

(4) COSTS.—The Secretary shall pay all costs of distribution under this subsection out of the amount set aside under paragraph (1).

(c) EMERGENCY ASSISTANCE PROGRAM.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 10 percent for an emergency assistance program.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount setaside—

(A) shall be distributed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be used to provide emergency assistance for tribal members.

(3) AVAILABILITY OF INTEREST.—Of the initial interest, 10 percent shall be available on the date of enactment of this Act shall be used to fund the program for the first year after the date of enactment of this Act.

(d) EDUCATION, VOCATIONAL, AND CULTURAL TRAINING PROGRAM.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 10 percent for an education, vocational, and cultural training program.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount setaside—

(A) shall be distributed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be used to provide scholarships to tribal members pursuing educational advancement, including cultural and vocational training.

(3) AVAILABILITY OF INTEREST.—Of the initial interest, 10 percent shall be available upon the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(e) HOUSING ASSISTANCE PROGRAM.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 5 percent for a housing assistance program.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount set aside—

(A) shall be disbursed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be—

(i) used as a supplement to any existing tribal housing improvements program; or

(ii) used in a separate housing assistance Program established by the Cowlitz Tribal Council.

(3) AVAILABILITY OF INTEREST.—Of the initial interest, 5 percent shall be available on the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(f) ECONOMIC DEVELOPMENT, TRIBAL, AND CULTURAL CENTERS.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 21.5 percent—

(A) for economic development; and

(B) if other funding is not available or not adequate (as determined by the Tribe), for the construction and maintenance of tribal and cultural centers.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount set aside—

(A) shall be disbursed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be used for—

(i) property acquisition for business or other activities that are likely to benefit the Tribe economically or provide employment for tribal members;

(ii) business development for the Tribe, including collateralization of loans for the purchase or operation of businesses, matching funds for economic development grants, joint venture partnerships, and other similar ventures that are likely to produce profits for the Tribe; and

(iii) design, construction, maintenance, and operation of tribal centers and cultural centers.

(3) LOAN REPAYMENT.—The principal and interest of any business loan made under paragraph (2) shall be repaid to the economic development program for reinvestments, and business profits shall be credited to the general fund of the Tribe for uses to be determined by the Cowlitz Tribal Council.

(4) AVAILABILITY OF INTEREST.— 21.5 percent of the initial interest available upon the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(g) NATURAL RESOURCES.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 7.5 percent for natural resources.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount set aside—

(A) shall be disbursed annually in a lump sum to the Cowlitz Tribal Council; and

(B) may be added to any existing tribal natural resource program to enhance the use and enjoyment by the Tribe of existing and renewable natural resources on tribal land.

(3) AVAILABILITY OF INTEREST.—7.5 percent of the initial interest shall be available upon the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(h) CULTURAL RESOURCES.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 4 percent for cultural resources.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount set aside—

(A) shall be distributed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be used to—

(i) maintain artifacts;

(ii) collect documents; and

(iii) archive and identify cultural sites of tribal significance.

(3) AVAILABILITY OR INTEREST.—Of the initial interest, 4 percent shall be available on the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(i) HEALTH.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 21 percent for health.

(2) DISTRIBUTION OF INTEREST.—Beginning the second year after the date of enactment of this Act, interest earned on the amount set aside—

(A) shall be disbursed annually in a lump sum to the Cowlitz Tribal Council; and

(B) shall be used for the health needs of the Tribe.

(3) AVAILABILITY OF INTEREST.—21 percent of the initial interest shall be available on the date of enactment of this Act to fund the program for the first year after the date of enactment of this Act.

(j) TRIBAL ADMINISTRATION PROGRAM.—

(1) SETASIDE.—From the principal, the Secretary shall set aside 21 percent for tribal administration.

(2) DISTRIBUTION OF INTEREST.—

(A) INITIAL DISTRIBUTION.—Of the initial interest, 21 percent, and of the principal, the difference between 21 percent of the initial interest and $150,000, shall be set aside and immediately disbursed to the Tribe for the purposes of funding tribal administration for the first year after the date of enactment of this Act.

(B) SUBSEQUENT DISTRIBUTION.—Beginning the second year after the date of enactment of this Act, interest earned on the remaining principal set aside under this subsection shall be disbursed annually in a lump sum to pay the operating costs of the Cowlitz Tribal Council, including travel, telephone, cultural, and other expenses incurred in the conduct of the affairs of the Tribe and legal fees as approved by the Cowlitz Tribal Council.

(k) GENERAL CONDITIONS.—

(1) IN GENERAL.—The conditions stated in this subsection apply to the management and use of all funds available under this title by the Cowlitz Tribal Council.

(2) ADMINISTRATIVE COSTS.—Not more than 10 percent of the interest earned on the principal designated for the program under any subsection, except the programs under subsections (i) and (j), may be used for the administrative costs of the program.

(3) NO SERVICE AREA.—

(A) IN GENERAL.—No service area is implied or imposed under any program under this title.

(B) MEMBERS OUTSIDE SERVICE AREA.—If the costs of administering any program under this Act for the benefit of tribal members living outside the Tribe's Indian Health Service area are greater than 10 percent of the interest earned on the principal designated for that program, the Cowlitz Tribal Council may authorize the expenditure of such funds for that program.

(3) APPROVAL.—Before any expenditures, the Cowlitz Tribal Council shall approve all programs and shall publish in a publication of general circulation regulations that provide standards and priorities for programs under this title.

(4) APPLICABILITY OF OTHER LAW.—Section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407) shall apply to funds available under this title.

(5) APPEAL.—

(A) IN GENERAL.—Any tribal member who believes that he or she has been unfairly denied the right to take part in any program under this title may appeal to the tribal secretary.

(B) RESOLUTION.—The tribal secretary shall bring the appeal to the Cowlitz Tribal Council for resolution.

(C) TIMELY RESPONSE.—The resolution shall be made in a timely manner, and the tribal secretary shall respond to the tribal member.

TITLE III—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution Act of 2003''.

SEC. 302. FINDINGS.

Congress finds that—

(1) on December 18, 1987, the Assiniboine and Sioux Tribes of the Fort Peck Reservation and 5 individual Fort Peck tribal members filed a complaint in the United States Claims Court (currently the Court of Federal Claims) in the case of Assiniboine and Sioux Tribes of the Fort Peck Reservation v. United States of America, Docket No. 773–87–L, to recover interest earned on trust funds while those funds were held in special deposit accounts and Indian Moneys–Proceeds of Labor accounts;

(2) the Court held that the United States was liable for any income derived from investment of the trust funds of the Tribe and individual members of the Tribe for the period during which those funds were held in special deposit accounts and Indian Moneys–Proceeds of Labor accounts;

(3) on December 31, 1998, the plaintiffs entered into a settlement with the United States for claims made in the case for payment by the United States of—

(A) $1,339,415.33, representing interest earned on funds while held in special deposit accounts at the Fort Peck Agency during the period August 13, 1946, through September 30, 1981;

(B) $2,749,354.41, representing—

(i) interest on the principal indebtedness for the period from August 13, 1946, through July 31, 1998; plus

(ii) $364.27 in per diem interest on the principal indebtedness for each day during the period commencing August 1, 1998, and ending on the date on which the judgment is paid; and

(C) $350,000, representing the litigation costs and attorney's fees that the Tribe incurred to prosecute the claims;

(4) the terms of the settlement were approved by the Court on January 8, 1999, and judgment was entered on January 12, 1999;

(5) on March 18, 1999, $4,522,551.84 was transferred to the Department of the Interior;

(6) that judgment amount was deposited in an escrow account established to provide—

(A) $350,000 for the payment of attorney's fees and expenses; and

(B) $4,172,551.84 for pending Court-ordered distribution to the Tribe and individual Indian trust beneficiaries;

(7) on January 31, 2001, the Court approved a joint stipulation that established procedures for—

(A) identification of the class of individual Indians having an interest in the judgment;

(B) notice to and certification of that class; and

(C) the distribution of the judgment amount to the Tribe and affected class of individual Indians;

(8)(A) on or about February 14, 2001, in accordance with the Court-approved stipulation, $643,186.73 was transferred to an account established by the Secretary for the benefit of the Tribe; and

(B) that transferred amount represents—

(i) 54.2 percent of the Tribe's estimated 26-percent share of the amount referred to in paragraph (6)(B); plus

(ii) 50 percent of the Tribe's estimated 26-percent share of interest and capital gains earned on the judgment amount from the period beginning March 18, 1999, and ending on December 31, 2000;

(9) under the Court-approved stipulation—

(A) that transferred amount is to remain available for use by the Tribe in accordance with a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.);

(B) the Tribe will most likely receive additional payments from the distribution amount once the identification of all individuals eligible to share in the distribution amount is completed and the pro rata shares are calculated; and

(C) those additional payments would include—

(i) the balance of the share of the Tribe of the distribution amount and investment income earned on the distribution amount;

(ii) the portion of the distribution amount that represents income derived on funds in special deposit accounts that are not attributable to the Tribe or any individual Indian; and

(iii) the portion of the distribution amount that represents shares attributable to individual Indians that—

(I) cannot be located for purposes of accepting payment; and

(II) will not be bound by the judgment in the case referred to in paragraph (1); and

(10) under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit to Congress for approval an Indian judgment fund use or distribution plan.

SEC. 303. DEFINITIONS.

In this title:

(1) COURT.—The term ''Court'' means the Court of Federal Claims.

(2) DISTRIBUTION AMOUNT.—The term ''distribution amount'' means the amount referred to in section 302(6)(B).

(3) JUDGMENT AMOUNT.—The term ''judgment amount'' means the amount referred to in section 302(5).

(4) PRINCIPAL INDEBTEDNESS.—The term ''principal indebtedness'' means the amount referred to in section 302(3)(A).

(5) TRIBE.—The term ''Tribe'' means the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 304. DISTRIBUTION OF JUDGMENT FUNDS.

(a) IN GENERAL.—Notwithstanding any provision of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the share of the Tribe of the distribution amount, and such additional amounts as may be awarded to the Tribe by the Court with respect to the case referred to in section 302(1) (including any interest accrued on those amounts)—

(1) shall be made available for tribal health, education, housing, and social services programs of the Tribe, including—

(A) educational and youth programs;

(B) programs for improvement of facilities and housing;

(C) programs to provide equipment for public utilities;

(D) programs to provide medical assistance or dental, optical, or convalescent equipment; and

(E) programs to provide senior citizen and community services; and

(2) shall not be available for per capita distribution to any member of the Tribe.

(b) BUDGET SPECIFICATION.—The specific programs for which funds are made available under subsection (a)(1), and the amount of funds allocated to each of those programs, shall be specified in an annual budget developed by the Tribe and approved by the Secretary.

SEC. 305. APPLICABLE LAW.

Except as provided in section 304(a), all funds distributed under this title are subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

TITLE IV—UTU UTU GWAITU PAIUTE INDIAN LAND TRANSFER

SEC. 401. TRANSFER.

Section 902(b) of the California Indian Land Transfer Act (114 Stat. 2921) is amended—

(1) by striking ''3,525.8'' and inserting ''3,765.8''; and

(2) by adding at the end the following:

''(9) UTU UTU GWAITU PAIUTE TRIBE.—Lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe, Benton Paiute Reservation are comprised of approximately 240 acres described as follows:

''Mount Diablo Base and Meridian

''Township 2 South, Range 31 East

''Section 11:

''SE½ and E½ of SW¼.''.

By Mrs. BOXER:

S. 1956. A bill to provide assistance to States and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today, I am proud to introduce the HOPE Youth Pregnancy Prevention Act.

While teen pregnancy rates in the United States have dropped significantly in the last decade, we still have one of the highest rates among industrialized nations. American teens are twice as likely to become pregnant as teenagers in Great Britain and four times more likely than teens in Sweden and France. At the same time, the teen pregnancy rates for Hispanic and other minority teens in the United States are significantly higher than the national average.

The HOPE Youth Pregnancy Prevention Act would provide resources to help prevent teen pregnancy among at-risk and minority youth.

Specifically, my bill would provide grants to States, localities, and non-

governmental organizations for teenage pregnancy prevention activities targeted to areas with large ethnic minorities and other at-risk youth. These grants could be used for a number of activities, including youth development, work-related interventions and other educational activities, parental involvement, teenage outreach and clinical services. The bill would authorize $30 million a year for five years for these grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teenage pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth. The bill would authorize $20 million a year for 5 years.

Over the past 10 years, we have made progress reducing teen pregnancy. But out work is not done. We need to strengthen our efforts, especially among Hispanic and other minority youth. I encourage my colleagues to support this effort.

By Mr. BINGAMAN:

S. 1957. A bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce the United States-Mexico Transboundary Aquifer Assessment Act.

This bill is the result of a field hearing I conducted in Las Cruces, NM two years ago during my tenure as the Chairman of the Energy and Natural Resources Committee. The focus of the hearing was water resource issues that were developing along the U.S.-Mexico border—particularly the area encompassing Las Cruces, El Paso, Texas, and Juárez, Mexico.

There had long existed an ongoing effort to address water quality issues and waste-water infrastructure needs in the border region, but I was concerned that issues regarding the availability of future water supplies were growing. The testimony at that hearing made clear that there exists little consensus on how growing communities in the border region will address their future water needs. In particular, I was struck by the lack of agreement on the long-term viability of future groundwater sources, many of which involve aquifers underlying communities in both the United States and Mexico. Given the rapid population growth along the U.S.-Mexico border and the increasing demand for water, there is a strong need to gain a common understanding of the limits of our shared groundwater resources. A thorough understanding of the resource is the first step to avoiding conflicts similar to those that have arisen between the United States and Mexico over shared surface waters—e.g. the Rio Grande.

The United States-Mexico Transboundary Assessment Act is intended to address the lack of binational consensus regarding the source and availability of future water supplies along the border. It will do this by establishing a scientific program, involving entities on both sides of the border, to comprehensively assess priority transboundary aquifers. The information and scientific tools developed by this program will be extremely valuable to State and local water resource managers in the border region. This effort is to be led by the United States Geological Survey (USGS) working closely with the border states and local entities. Over the last several years the USGS has been working with key stakeholders in the border region to design this technical program.

I understand that establishing this scientific program and accurately assessing our shared water resources is just a step towards developing the long-term plans and solutions that will help avoid future international disputes concerning scarce water supplies. This small step, however, is an important one, and is recognized by a number of organizations familiar with the need for cooperative efforts between the United States and Mexico on shared water resources. In its 6th Report on the U.S.-Mexico Border Environment, the Good Neighbor Environmental Board, an independent federal advisory committee managed by the U.S. Environmental Protection Agency, recommended the initiation of a ''border-wide groundwater assessment program to systematically analyze priority trans-boundary aquifers.'' Also, the Center for Strategic and International Studies, in a January 2003 report of its U.S.-Mexico Binational Council, included as one of its recommendations that Mexico and the United States ''improve data collection, information gathering, and transparency as the first step to developing a long-term strategy for water management.''

Ultimately, the necessary long-term strategy will have to be developed by the communities and other water users who reside along the border. Working with each other and their state water resource agencies, I believe successful strategies can be developed so long as the information that is the basis for the plans is the most accurate possible. In that respect, the USGS has a strong and important role to play. This bill will ensure that the USGS will be able to fulfill this role which, in turn, will enhance the prospects for our border communities to plan for their future and manage their growth in a manner that ensures their long-term viability and prosperity.

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. 1957

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 ''United States-Mexico Transboundary Aquifer Assessment Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) rapid population growth in the United States-Mexico border region over the last decade has placed major strains on limited water supplies in the region;

(2) water quantity and quality issues are likely to be the determining and limiting factors affecting future economic development, population growth, and human health in the border region;

(3) increasing use of groundwater resources in the border region by municipal and other water users has raised serious questions concerning the long-term availability of the water supply;

(4) cooperation between the United States and Mexico in assessing and understanding transboundary aquifers is necessary for the successful management of shared groundwater resources by State and local authorities in the United States and appropriate authorities in Mexico, including management that avoids conflict between the United States and Mexico;

(5) while there have been some studies of binational groundwater resources along the United States-Mexico border, additional data and analyses are needed to develop an accurate understanding of the long-term availability of useable water supplies from transboundary aquifers; and

(6) the Border States—

(A) are primarily responsible for the management and allocation of groundwater resources within the respective boundaries of the Border States; and

(B) should have a cooperative role in the analysis and characterization of transboundary aquifers.

(b) PURPOSE.—The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) AQUIFER.—The term ''aquifer'' means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term ''Border State'' means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term ''Indian tribe'' means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term ''priority transboundary aquifer'' means a transboundary aquifer that has been

designated for study and analysis under the program.

(5) PROGRAM.—The term ''program'' means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term ''reservation'' means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term ''transboundary aquifer'' means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term ''Tri-Regional Planning Group'' means the binational planning group comprised of—

(A) the Junta Municipal de Aqua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term ''water resources research institutes'' means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the Water Resources Research Institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used; and

(III) the susceptibility of the transboundary aquifer to contamination;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop any additional data that are needed to define aquifer characteristics to the extent necessary to enable the development of groundwater flow models to assess sustainable water yields for each priority transboundary aquifer;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the Water Resources Research Institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer to provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF CERTAIN AQUIFERS.—For purposes of the program, the Secretary shall designate the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico as priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the Water Resource Research Institutes and other Border State entities to carry out the program.

SEC. 5. STATE AND TRIBAL ROLE.

(a) COORDINATION.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States; and

(2) any affected Indian tribes.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any field studies to develop data or develop any groundwater flow models for a priority transboundary aquifer under the program before consulting with, and coordinating the activity with, the Border State water resource agency that has jurisdiction over the aquifer.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2005 through 2014.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the Water Resource Research Institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

By Mr. DASCHLE (for Mr. KERRY (for himself and Mr. KENNEDY)):

S. 1958. A bill to prevent the practice of late trading by mutual funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, as the world's largest economy, I believe the United States must have the fairest, most transparent and efficient financial markets in the world. Our financial services companies must live up to the highest standards of accountability. This is critical to ensure that the United States remains strong, competitive and safe in the global economy. Unfortunately, recent reports of late trading and market timing have brought into question whether mutual fund companies have lived up to the highest standards of accountability. They have also shown that the Bush Administration failed to provide effective oversight and examination of mutual fund companies, while poorly enforcing our securities laws. The inaction of the Bush Administration has dangerously eroded the trust and confidence of the American people in mutual funds and may have allowed mutual fund companies and big investors to engage in fraudulent behavior against individuals and pension funds.

New York and Massachusetts regulators have uncovered a scheme in which some of America's top mutual fund companies let big investors profit illegally at the expense of small investors with so-called ''late trades'' and ''market timing.'' The scam appears to be widespread. Today, roughly half of all American households own mutual funds either directly or through a retirement account or pension fund. It's been reported that as much as one quarter of mutual fund companies may be involved in late trading and market timing and that such schemes may cost investors as much as $5 billion annually.

In a late trade, big investors purchase mutual fund shares after the close of the market but at the closing price, allowing them to take advantage of late-breaking financial news. A mutual fund manager might allow a big investor to buy shares in a technology fund at the 4 p.m. close price after learning at 5 p.m. that a major technology company has reported unexpectedly strong earnings. The investor is almost guaranteed a profit when the market opens the following day and share prices climb. In return for this illegal access, the big investor might pledge to continue to invest in the fund.

Market timing exploits the unique way that mutual funds set their prices. While it is not illegal, most mutual fund companies assure investors that they discourage such practices and that they are working to prevent fund timing. Under a market timing trade, big investors trade in and out of certain mutual funds in order to exploit the inefficient way mutual funds price their shares and ensure a profit.

In 2002, individuals who invested in mutual funds paid approximately $70 billion in advisory and management

fees, an average of more than $700 per investor. There is a significant disparity between the rate of advisory fees charged to mutual fund investors and the rate paid by institutional investors, even though they provide the similar services. Currently, mutual fund managers are under no obligation to negotiate advisory and management fees that are in the best interest of their shareholders. In some instances, mutual fund managers has a financial relationship with the contractor which receives a no-bid contract from the same mutual fund.

In a September 2003 complaint, New York Attorney General Spitzer alleged that Canary Capital Partners, a New Jersey hedge fund, engaged in illegal and unethical trading in mutual funds, such as late trading and market timing. After the New York State complaint, the SEC ordered a preliminary investigation, which found that half of the 88 mutual fund companies and brokerage firms had arrangements to make market-timing trades. These arrangements occurred even though about half of the fund companies have policies specifically barring market timing. Other investigations of mutual fund companies have begun, and it appears as though many mutual fund companies have been involved directly or indirectly in late trading and market-timing schemes.

I am very concerned that the actions of the SEC in response to the State investigations of late trading and market timing have been inadequate and show a bias in favor of mutual fund companies at the expense of small investors.

For example, earlier this year the SEC conducted a four-month investigation of Putnam Investments' record keeping, internal controls, and ability to comply with Federal securities laws. During that review, a Putnam employee informed the SEC that the company had failed to stop improper market-timing trades. Despite the tip, SEC examiners did not identify any problems with market timing in its report on Putnam. The Putnam employee, after being rejected by the SEC, brought the same information to the Massachusetts Secretary of State's office, which began an investigation. Only after the Commonwealth of Massachusetts began an investigation did the SEC begin its own investigation of market timing at Putnam. In October, both the Commonwealth of Massachusetts and the SEC charged Putnam with securities fraud, only months after the SEC gave Putnam a clean bill of health. Only a few weeks later, Putnam reached a partial settlement of the securities fraud charges with the SEC which did not include the Commonwealth of Massachusetts. Under the settlement, Putnam agrees to make restitution only for losses to investors attributable to excessive short-term and market-timing trading by its employees and to make structural reforms. Under the agreement, Putnam neither admitted nor denied wrongdoing and the SEC still has not investigated whether outside investors were engaged in market-timing activities. New York Attorney General Eliot Spitzer said that Putnam's agreement with the SEC does not address crucial issues involving restitution to fund holders, fees and penalties. William Galvin, the Massachusetts Secretary of State said that the agreement clearly demonstrates that the SEC is more interested in protecting the mutual fund industry than the average investor.

These actions by the SEC highlight a fundamental problem in the Bush Administration's hands-off approach to regulating financial markets and the danger it poses to small investors and the national economy.

Compounding this danger and lack of responsible leadership, President Bush has repeatedly nominated individuals to important economic positions notable for their corporate sympathies. The President selected a lobbyist for financial deregulation as the chief regulator of the federal mortgage lender Freddie Mac. His first SEC chairman was an accounting industry who was forced to resign in a storm of public outrage over his lenient treatment of his former business.

Even after the accounting scandals that felled Enron and WorldCom, it was last year's Democratic Senate that pushed to enact an historic corporate reform law and the President who joined the effort only once its passage was all but ensured. It was state attorneys general who exposed dubious conflicts of interest at brokerage houses. And when energy companies gauged ratepayers in the West through questionable trades, the Administration sat on its hands for months.

The message from the White House to the regulatory agencies, in actions if not words, is don't ask and don't tell when it comes to protecting investors and consumers.

Justice demands that we fully prosecute Wall Street insiders that steal from Americans saving for retirement, education or simply a brighter future. And we can only hope to revive our economy if we restore investor confidence in the markets so that capital flows to business growth and job creation.

To stop the erosion of trust in our financial markets and to help restore the American investor's faith in the mutual fund industry, I am introducing the Mutual Fund Investor Protection Act to update federal securities laws to curb late-trading and market-timing abuses and institute new limits on mutual fund fees paid by investors.

The actions by the SEC show that it is incapable of protecting investors from securities fraud by mutual fund companies and will not prosecute this type of fraud to the full extent of the law. Therefore, we must take the day-to-day oversight of mutual funds away from the SEC and develop a new Mutual Fund Oversight Board to provide oversight, examination and enforcement of mutual funds. This new board will be similar to the Public Company Accounting Oversight Board developed in the Sarbanes-Oxley Act. It will be charged with identifying potential problems in the mutual fund industry and ensuring that fund boards are actively addressing these problems—before they spread. It would promulgate guidance regarding current regulatory issues and best practices regarding how to deal with them, and it would examine mutual funds to ensure that they are taking necessary steps to protect shareholders. The Board itself would determine how to provide an adequate and reliable source of funding for its investigations.

I believe that every investor has the right to know how much their mutual fund takes away from their investment to pay for advisory, management, and investment service fees. Under this legislation, each investor will receive in their statement a regular accounting as to what types of fees they are paying to invest in their mutual fund. This will help investors shop around and find the mutual funds that have the lowest fees. Mutual funds will have to respond to the changing marketplace and only charge fees that are absolutely necessary to the management of the fund. Also, this legislation requires mutual fund managers to negotiate fee contracts that are reasonable and in their investors' best interest and to report on any significant or material business or professional relationship with companies that the mutual fund provides contracts. Finally, the bill requires each mutual fund to hire a compliance officer to ensure that the mutual fund complies with all relevant laws and makes sure that they provide any information on scams to the independent mutual fund directors to stop abuse. Taken together, these provisions will help investors by making it much more difficult for mutual funds to charge unreasonable and unnecessary fees.

Today, mutual funds are valued once a day, called the Net Asset Value or NAV, usually at 4 p.m. EST, when the New York market closes. The bill will require that all mutual fund companies receive an order prior to the time the fund sets a share price or NAV for an investor to receive that day's price. This will make it much more difficult for big investors to use brokers to send in trades after the 4 p.m. deadline.

We should include late-trading laws as an offense under the Racketeer Influenced and Corrupt Organization (RICO) provisions of the criminal code. First used to prosecute the Mob, RICO should now be used to stop and punish organized crime on Wall Street. This will help limit mutual fund employees and big investors from attempting to defraud small investors. It will also help investors who lose money due to late-trading schemes to recover treble damages, costs and attorneys' fees.

The SEC recently found that many mutual fund companies and brokerage

firms had arrangements with big investors allowing them to make market-timing trades even though these fund companies have policies specifically barring market timing. My legislation bars mutual fund employees from engaging in market timing trades. It requires each mutual fund prospectus to explicitly disclose market-timing policies and procedures to stop abuse. Then, it increases penalties for mutual funds which do not follow their own policies and procedures to limit abuse.

In order to help stop mutual fund abuse, this legislation increases the penalties and jail time for current securities laws including: defrauding the offer or sale of securities, failing to keep current and appropriate records of brokerage transactions, and not selling or redeeming fund shares at a price based on current Net Asset Value (NAV). These changes will make criminals think twice before committing violations of securities laws. The proceeds of the additional fines collected by this legislation will be put into a fund to assist the victims of their crimes.

Today, individual mutual funds are effectively dominated by their advisers. My legislation strengthens the influence of independent directors on fund boards by requiring that independent directors comprise at least three-quarters of the board. It will also require mutual funds to have an independent chairman with the authority and ability to demand and receive all information from the fund advisory and management companies. This will increase the voice investors have in fund management and limit mutual fund abuses.

By developing a new structure to provide appropriate oversight and enforcement mechanisms to fight abuse in the mutual fund industry, this legislation restores the confidence of investors in mutual funds. Ultimately, investor confidence will increase investment and enhance economic growth. I ask all my colleagues to support this legislation.●

By Mr. SARBANES (for himself, Ms. LANDRIEU, Ms. MIKULSKI, and Mr. ALLEN):

S. 1959. A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 1992 to provide for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia Watershed in the State of Maryland and the District of Columbia; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation to bolster efforts to restore the Anacostia River. Joining me in sponsoring this measure are my colleagues Senators LANDRIEU, MIKULSKI and ALLEN. A companion bill has also been introduced in the House, sponsored by Representative ELEANOR HOLMES NORTON and other members of the Washington metropolitan area Congressional Delegation.

Mr. President, the Anacostia River is a resource rich in history and with tremendous natural resources and recreational potential. It is homes to 43 species of fish, some 200 species of birds, as well as more than 800,000 people whose neighborhoods border the watershed. Flowing through Montgomery and Prince George's Counties in Maryland and emptying into the Potomac at the District of Columbia, the watershed consists of a 176-square-mile drainage area. One of the most urbanized watersheds in the United States, the Anacostia suffers a series of problems including trash, toxic pollution from urban runoff, sewage pollution from leaking sewer lines and combined sewer overflows, sediment pollution from erosion, and loss of fish and wildlife and recreational resources. It is a resource that has long been abused and neglected, but one that, in my view, can and must be protected and restored.

Efforts to begin rejuvenating the Anacostia watershed began formally in 1987 when the State of Maryland, Montgomery and Prince George's Counties, and the District of Columbia signed an Anacostia Watershed Restoration Agreement. The agreement authorized the Washington Area Council of Governments, COG, to manage the restoration program and the Interstate Commission on the Potomac River Basin, ICPRB, to protect the resources and facilitate public participation. COG created an Anacostia Watershed Restoration Committee, AWRC, to coordinate and implement restoration projects throughout the watershed. Since that time, local, State, and Federal Government agencies, as well as the Anacostia Watershed Society, the Anacostia Citizens Advisory Committee and other environmental organizations and dedicated private citizens have contributed significant resources toward re-establishing the Anacostia watershed ecosystem.

Thanks to this cooperative and coordinated Federal, State, local and private effort, we are beginning to make some progress in restoring the watershed. A Six Point Action Plan was signed in 1991 setting ambitious and broad-reaching goals for the river's restoration. In 1993 we celebrated the successful restoration of 32 acres of emergent tidal wetlands by the Army Corps of Engineers at Kenilworth marsh. The project has shown significant results in improving tidal water flow through the marsh, and reducing the concentration of nitrogen and phosphorus in the area and demonstrates what can be achieved in urban river restoration. There have been other success stories as well in urban stream restoration in Montgomery and Prince George's counties, removing barriers to fish passage and reforestation efforts throughout the watershed, to name only a few. In 1999, a new Anacostia Watershed Agreement was signed to strengthen the regional governmental commitment to Anacostia restoration. There are today more than 60 local, State and Federal agencies involved in Anacostia watershed restoration. And more than $100 million has been spent cleaning up the river. There is clearly much for which we can all be proud. But the job of restoring the Anacostia watershed is far from complete. The Anacostia is still one of North America's most endangered and threatened rivers. It is designated one of three ''regions of concern'' for toxics in the Chesapeake Bay watershed.

The legislation which we are introducing authorizes more than $200 million in Federal assistance over the next 10 years to restore the Anacostia. Of these funds, $170 million is authorized to address the biggest pollution problems in the watershed—stormwater runoff and failing wastewater infrastructure. As the builder of much of the original infrastructure and a major user, the Federal Government has an important responsibility to help stem the flow of this pollution and comply with the Clean Water Act. The remaining funds will allow the administrator of EPA, working together with an ''Anacostia Watershed Council'' of State and local officials, to develop a comprehensive environmental protection and resource management plan for the watershed, for several Federal agencies to join in the implementation of the plan.

Mr. President, the Anacostia River suffers from centuries of impacts and changes. Once a healthy, thriving river, it is today severely degraded. This legislation is urgently needed if we are to achieve the goal of making the Anacostia and its tributaries swimmable and fishable again. I urge my colleagues to join me in supporting this measure and ask unanimous consent that a section-by-section analysis of the legislation be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE ''ANACOSTIA WATERSHED INITIATIVE ACT OF 2003''

Section 1—Title—''The Anacostia Watershed Restoration Act of 2003''

Section 2—Findings—Describes the attributes and challenges of the watershed, addresses the economic and natural potential of the watershed to Maryland, DC and the United States; relates the history of efforts to restore the Anacostia River and watershed; and suggests that the importance of the Anacostia River combined with the need for concerted sustained actions among the affected jurisdictions, requires the development of comprehensive environmental protection and resource management action plan.

Section 3—Anacostia Watershed Initiative—Amends Federal Water Pollution Control Act (Clean Water Act) by adding a new section 123 that:

a. Provides definitions.

b. Establishes the ''Anacostia Watershed Restoration Initiative'' in the U.S. Environmental Protection Agency to restore the environmental integrity of the Anacostia watershed and plan and fund restoration improvements.

c. Establishes the Anacostia Watershed Council (comprised of the Administrator of the EPA, the Interior Secretary, the Secretary of the Army, the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, and the County Executives from Prince Georges and Montgomery Counties) and provides minimum meeting requirements.

d. Establishes objectives and guidelines for the development, review and approval, within one year after enactment, of a 10-year multi-jurisdictional Comprehensive Action Plan for restoration of the Anacostia watershed. Directs that the comprehensive action plan shall incorporate the goals of the 1991 Anacostia Watershed Restoration Agreement; provide for public input; identify annual restoration targets, describe the duties of federal, state and local agencies, and suggest methods, schedules, and amounts of funding required for programs, activities, and projects. Directs that the plan shall promote implementation of a federally approved combined sewer long term control plan. Allows the plan to be amended as appropriated.

e. Requires the Anacostia Watershed Council to report annually to the Congressional authorizing and appropriating committees.

f. Permits the Administrator, in consultation with the Anacostia Watershed Council, to provide financial and technical support to local public and non-profit entities to develop and implement the Comprehensive Action Plan.

g. Directs Under or Assistant Secretaries of the EPA, Interior, Agriculture, Commerce, Army, HUD, and Transportation acting through designed agencies to support the Initiative and Comprehensive Action Plan.

h. Provides that the Initiative shall not affect existing obligations.

i. Authorizes appropriations for fiscal years 2004–2013; $3,000,000 to the Administrator for development and implementation of the Initiative and $6,000,000 of which shall be used by EPA, Interior, Agriculture, Commerce, Transportation, HUD, and the Army; provided that not more than 10 percent of these funds may be used for administrative costs.

Section 4—Water Infrastructure—Amends Section 219(f) of the Water Resource Development Act to provide $150 million to support upgrading the DC combined sewer and $20 million for a program of assistance to non-federal entities to address other water quality issues.

By Mrs. BOXER:

S. 1960. A bill to exempt airports in economically depressed communities from matching grant obligations under the Airport Improvement Program; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last summer I visited Del Norte County—in the most northern part of my State. Del Norte County has been hit particularly hard during these tough economic times. Unemployment in the county tops 7.6 percent. Local officials are working hard to revitalize the economy, and one of their top priorities is to renovate Del Norte County's airport. And they would like federal assistance.

However, under the federal Airport Improvement Program, federal grants must be matched with local funds. In general, I support that policy. But, for communities facing severe economic problems, this match is prohibitive. It's a bit of a Catch-22. The Federal funds that would help the local economy rebound are not available because the local economy is in such bad shape that the community can't match the federal grants.

The bill that I am introducing today would address this by eliminating the match required under the Airport Improvement Program for economically depressed communities.

To be considered an economically depressed community, a community would have a variety of ways to quality. First, for the last two years, the unemployment rate could be one percent higher than the nation's unemployment rate. Second, the per capita income of the community could be 80 percent or less of the nation's per capita income. Or third, the Secretary of Transportation could decide that a particular community had a special needs. These criteria are consistent with other provisions of federal law.

I believe that by waiving the matching grant in communities that have a high unemployment rate or low per capita income, we will help to rejuvenate their business climate and reinvigorate their local economies.

With a little bit of help, I am very optimistic about the future of Del Norte County and other areas in California and across the Nation that are facing tough economic times. This bill will provide that little bit of help.

By Mr. HOLLINGS (for himself, Ms. COLLINS, Mr. CARPER, Mr. SPECTER, Mr. JEFFORDS, Mr. LAUTENBERG, and Mr. BIDEN):

S. 1961. A bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today to introduce the American Railroad Revitalization, Investment, and Enhancement Act of the 21st Century, better known as "ARRIVE–21." This legislation is of vital importance to rail transportation because it provides steady, dependable funding for our beleaguered national passenger rail system. It also provides funding for infrastructure investment in the railroad industry as a whole, including freight railroads. And it establishes a financing mechanism to ensure that our rail system benefits from a steady stream of funding, just like our airline industry, our transit systems, and our national highway system.

For the past 30 years, Amtrak has provided us with a valuable public service, even though it was forced year after year to come beg for money from the Congress. And year after year, the Congress gave it just enough money to barely survive another 12 months. Sometimes Congress didn't appropriate even enough money to last 12 months, and Amtrak had to come back and beg for a supplemental appropriation just to remain in business until the end of the fiscal year. Never mind having enough money to grow the railroad; never mind having enough money to run a first-class passenger railroad. And never mind having enough money to keep the infrastructure in a state of good repair. All Amtrak has been able to do for 30 years is stay alive. It's time to give Amtrak the tools and funding it needs to do the job we keep asking it to do.

Last year I introduced the National Defense Rail Act of 2002 which was approved by the Senate Commerce Committee by a vote of 20–3. We have shown that bipartisan support exists for authorizing a strong rail program, however the main obstacle we have faced has been securing funding to live up to the authorized amounts. This legislation attempts to address the lack of a guaranteed revenue stream for passenger rail programs and establishes a framework to address freight needs where there is a clear public benefit.

It's a foregone conclusion that transportation development requires money. We somehow figured this out a long time ago with regard to every other mode of transportation. We federally funded the development of the interstate highway system; we subsidized airport construction; we dredged harbors and channels; and we built locks and dams. And the result of all that investment is that our citizens and our goods can move across the country, from big cities and from small towns, efficiently and relatively cheaply. We have today a national transportation system with many impressive components.

You might even say we have been a little too successful with these modes of transportation because many of them are now strained to capacity in many areas of the country. This situation presents not only an economic dilemma, but also a genuine security risk. The atrocious events of September 11th, and the aftermath that followed, exposed the vulnerability of our society and our economy when transportation choices become limited and our mobility is diminished. Effective transportation security means that, as a Nation, we nurture all transportation options and we do not allow ourselves to be overly dependent on only one or two particular modes. In effect, that's what we have done by favoring highways and aviation, where we have directed the flow of billions of dollars. Ironically, rail passenger service is more environmentally-friendly, more fuel-efficient, and more capable of mitigating the impacts of population congestion to help foster regional economic growth than any of the other modes. But in the process of shoring up those other transportation modes for all those years, we lost our focus on passenger rail and we sadly neglected investing in its development.

For passenger rail to be successful, its infrastructure must be developed through the kind of bold Federal leadership we exercised for our other modes of transportation. That's why my colleagues and I are pleased to introduce this landmark piece of legislation designed to change the way we think

about financing passenger rail service and designed to grow our passenger rail system into the world-class system it should be. The bill creates Federal/State and public/private partnerships to promote infrastructure development for both freight and passenger rail. It provides $20-$25 billion in grants over six years to States and State compacts for rail capital projects to provide for a safe, secure, and efficient rail transportation system. It enhances Federal and State rail transportation policy, and it promotes intermodal transportation investment.

ARRIVE–21 creates a non-profit Rail Infrastructure Finance Corporation (RIFCO) to issue $30 billion in tax-credit bonds over six years for the purpose of providing grants to States for capital investment in freight and passenger rail infrastructure and facilities. RIFCO will establish a trust account made up of bond proceeds and contributions from States that receive RIFCO grants. Bond proceeds and State contributions in excess of the amount required to maintain the trust account will then be available for grants to the States through a competitive process.

Although my first choice would be to fully fund the needs authorized in this legislation by straight federal spending, it has become clear that over the last thirty years that there is no pot of gold at the end of the rainbow when it comes to Amtrak. There is not enough money in the scant pot available for discretionary spending on transportation programs. We have established dedicated trust funds for the airlines with their ticket taxes, and we have the trust fund for the highways and transit programs which are funded through the gas tax, but when it comes to passenger railroads, there is no such revenue stream. The establishment of RIFCO was not my first choice to finance the publicly needed improvements of the railroad system, but it is an option for the Congress to debate and consider as we attempt to address what we need the rail system to do for this country.

RIFCO is set up to assist the States fund both passenger and freight projects that benefit the public on a State, regional or national basis. State or State compacts may apply for RIFCO funds for discretionary and formula funds for capital projects in four categories: State Intercity Passenger Rail Corridor Development, including equipment, stations, and facilities. State Freight Rail Infrastructure Development Projects, including capital projects that primarily benefit freight rail transportation. States may use a percentage of these formula funds to manage State rail programs. National System Improvement Projects, including projects that significantly benefit the national passenger rail system, Amtrak-sponsored projects and Northeast Corridor projects. High Priority Projects, including projects with major public policy benefits to the national rail system or significantly expand rail intermodal capacity in connection with maritime, aviation, and highway facilities.

Eligible capital projects would include new rail line development, planning and environmental reviews, track upgrades and restoration, highway-rail grade crossing improvements and eliminations, relocation of track, infrastructure and facilities, construction of intermodal facilities and passenger rail stations, tunnel and bridge repairs, communication and signaling improvements, environmental impact mitigation, acquisition of passenger rail equipment, and security improvements. Projects to receive discretionary funding would be selected by RIFCO according to selection criteria contained in the bill. The projects would require a 20 percent non-Federal contribution paid to RIFCO for bond repayment.

ARRIVE–21 also directs the Federal Railroad Administration to develop a National Rail Plan and to work with States in developing State rail plans, so that we have a comprehensive and coordinated long-range plan for rail development for the whole country. The bill also directs the Office of Intermodalism in the Department of Transportation to create a ‘‘50-Year Blueprint’’ for the development of a national intermodal transportation system and provide a vision of emerging trends and opportunities for the future of passenger and freight rail transportation.

Before I close, I would be remiss if I did not recognize the work of Nancy Lummens Lewis, a detailee from the Federal Railroad Administration, who has worked on the Commerce Committee since January. We have appreciated her professionalism, competency, and her willingness to work and share her time with us. I thank Nancy for her time spent on this bill, as well as her efforts on the reauthorization of the Transportation Equity Act of the 21st Century, The Federal Railroad Safety Improvement Act, and The Surface Transportation Board Act of 2003. We wish her well in her future endeavors.

ARRIVE–21 presents a smart and efficient solution to a very important transportation dilemma. I am joined by several of my colleagues, including Senators COLLINS, SPECTER, CARPER and JEFFORDS, in introducing this bipartisan legislation. As we have passed legislation this week providing approximately $15 billion annually for aviation for the next 4 years, and plan to take up a highway bill next year which will spend $40 to $60 billion annually on highways and transit over six years, we must not leave rail out. It is critical that the Senate take this bill up, and pass it, to ensure that our railroad transportation system, especially our passenger rail system, can grow and develop to meet our current and future transportation needs.

Attached is an amendment that the sponsors of ARRIVE–21 intend to offer during floor consideration of the bill. I ask unanimous consent that the amendment and the text of the bill be printed in the RECORD.

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

AMENDMENT

TITLE VIII—RAIL INFRASTRUCTURE TAX CREDIT BONDS

SEC. 801. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

“Subpart H—Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds

‘‘Sec. 54. Credit to holders of qualified rail infrastructure bonds.

“SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

‘‘(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

‘‘(b) AMOUNT OF CREDIT.—

‘‘(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

‘‘(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified rail infrastructure bond is the product of—

‘‘(A) the applicable credit rate, multiplied by

‘‘(B) the outstanding face amount of the bond.

‘‘(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate, equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

‘‘(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term ‘credit allowance date’ means—

‘‘(A) March 15,

‘‘(B) June 15,

‘‘(C) September 15, and

‘‘(D) December 15.

Such term includes the last day on which the bond is outstanding.

‘‘(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

‘‘(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

‘‘(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

‘‘(2) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (e)) and the amount so included shall be treated as interest income.

"(c) QUALIFIED RAIL, INFRASTRUCTURE BOND.—For purposes of this part, the term 'qualified rail infrastructure bond' means any bond issued as part of an issue if—

"(1) the bond is issued by the Rail Infrastructure Finance Corporation and is in registered form,

"(2) the term of each bond which is part of such issue does not exceed 20 years,

"(3) the payment of principal with respect to such bond is the obligation of the Rail Infrastructure Finance Corporation and not an obligation of the United States,

"(4) all proceeds from the sale of the issue are used for the purposes set forth in section 507(c)(5) of the Arrive 21 Act, and

"(5) 95 percent or more of the net spendable proceeds from the sale of such issue are to be used for expenditures incurred after the date of enactment of this section for any qualified project described in section 601, 602, or 603 of the Arrive 21 Act subject to the limitations established by that Act.

"(f) SPECIAL RULES RELATING TO NET SPENDABLE PROCEEDS.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if, as of 6 years after the date of issuance, the issuer reasonably expects—

"(A) to award grants under sections 501, 502, and 503 of the Arrive 21 Act in a total amount that is at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 6-year period beginning on such date,

"(B) to incur a binding commitment with a third party—

"(i) to spend at least 10 percent of the net spendable proceeds of the issue, or to commence construction, with respect to such projects within the 12-month period beginning on such date, and

"(ii) to proceed with due diligence to complete such projects, and

"(C) to expend the total amount of the net spendable proceeds of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 6-YEAR DETERMINATION.—If at least 95 percent of the net spendable proceeds of the issue is not awarded as grants to be expended for 1 or more qualified projects within the 6-year period beginning 6 years after the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of paragraph (1) if either the requirement under subparagraph (A) or the requirements under subparagraph (B) are met, as follows:

"(A) The issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 6-year period and disburses any remaining net spendable proceeds to the Secretary of Treasury within 30 days after the end of such 6-year period.

"(B) The issuer—

"(i) awards in grants under sections 501, 502, and 503 of the Arrive 21 Act at least 75 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 6-year period beginning 6 years after the date of issuance, and

"(ii) awards in grants under sections 501, 502, and 503 of the Arrive 21 Act at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 7-year period beginning 6 years after the date of issuance.

"(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a qualified rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) NONCULPABLE DISQUALIFICATIONS.—If a qualified rail infrastructure bond ceases to qualify as such a bond due to action taken by the recipient of a grant made under section 601, 602, or 603 of the Arrive 21 Act, the issuer may seek compensation under paragraph (1) of this subsection.

"(h) RAIL INFRASTRUCTURE FINANCE TRUST.—

"(i) IN GENERAL.—The following amounts shall be held in a trust account by the Rail Infrastructure Finance Corporation:

"(A) An amount of the proceeds from the sale of all bonds designated for purposes of this section that, when combined with amounts described in subparagraphs (B), (C), and (D), is sufficient—

"(i) to ensure the Corporation's ability to redeem all bonds upon maturity; and

"(ii) to pay the administrative expenses of the Corporation and the Rail Infrastructure Finance Trust.

"(B) The amount of any on-Federal contributions required under section 604(b) of the Arrive 21 Act.

"(C) The temporary period investment earnings on proceeds from the sale of such bonds.

"(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

"(2) USE OF FUNDS.—Amounts in the trust account may be used only for investment purposes to generate sufficient funds to redeem qualified rail infrastructure bonds at maturity and pay the administrative expenses of the Corporation and the Trust.

"(3) USE OF REMAINING FUNDS ON TRUST ACCOUNT.—If the Corporation determines that the amount in the trusts account exceeds the amount required to comply with paragraph (2), the Corporation may transfer the excess to the Rail Infrastructure Investment account to be available for awarding grants as provided for in section 507(c)(5)(B) of the Arrive 21 Act.

"(4) REVERSION OF REMAINING PROCEEDS.—Upon retirement of all bonds issued by the Corporation, any remaining proceeds from the sale of such bonds shall be covered into the general fund of the Treasury of the United States as miscellaneous receipts.

"(i) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) NET SPENDABLE PROCEEDS.—The terms 'net spendable proceeds' has the meaning give such term in section 507(c)(6) of the Arrive 21 Act.

"(3) QUALIFIED PROJECT.—The term 'qualified project' means any project that is eligible for grant funding under section 601, 602, or 603 of the Arrive 21 Act.

"(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(6) REPORTING.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).".

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON QUALIFIED RAIL INFRASTRUCTURE BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) CORPORATE.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

"(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) CLERICAL AMENDMENTS.—

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

"Subpart H. Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

SEC. 802. ISSUANCE OF REGULATIONS.

The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 not later than 90 days after the date of the enactment of this Act.

SEC. 803. EFFECTIVE DATE.

The amendments made by section 701 shall apply to obligations issued after the date of enactment of this Act.

On page 3, at the end of the matter appearing before line 1, insert the following:

TITLE VIII—RAIL INFRASTRUCTURE TAX CREDIT BONDS

Sec. 801. Credit to holders of qualified rail infrastructure bonds.
Sec. 802. Issuance of regulations.
Sec. 803. Effective date.

S. 1961

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Railroad Revitalization, Investment, and Enhancement Act of the 21st Century'' or the ''Arrive 21 Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Purposes.

TITLE I—RAIL TRANSPORTATION SECURITY

Sec. 101. Rail transportation security risk assessment.
Sec. 102. Certain personnel limitations not to apply.

TITLE II—FEDERAL RAIL POLICY

Sec. 201. Federal rail policy enhancement.
Sec. 202. Rail cooperative research program.
Sec. 203. State rail plans.
Sec. 204. Interstate railroad passenger high-speed transportation policy.
Sec. 205. High-speed rail corridor planning.
Sec. 206. Designated high-speed rail corridors.
Sec. 207. Rehabilitation, improvement, and security financing.
Sec. 208. Repayment of loan to National Railroad Passenger Corporation.

TITLE III—INTERMODAL POLICY

Sec. 301. 50–year intermodal blueprint.
Sec. 302. Intermodal transportation policy.

TITLE IV—AMTRAK AUTHORIZATIONS

Sec. 401. National Railroad Passenger Transportation system defined.
Sec. 402. Restructuring of long-term debt and capital leases.
Sec. 403. General Amtrak authorizations.
Sec. 404. Excess railroad retirement.
Sec. 405. Authorizations for environmental compliance and station improvements.
Sec. 406. Tunnel life safety.
Sec. 407. Authorization for capital and operating expenses.
Sec. 408. Establishment of grant process.
Sec. 409. State-supported routes.
Sec. 410. Re-establishment of Northeast Corridor Safety Committee.
Sec. 411. Amtrak board of directors.
Sec. 412. Establishment of financial accounting system for Amtrak operations by independent auditor.
Sec. 413. Development of 5-year financial plan.
Sec. 414. Independent auditor to establish methodologies for Amtrak route and service planning decisions.
Sec. 415. Metrics and standards.
Sec. 416. On-time performance.

TITLE V—RAIL INFRASTRUCTURE FINANCE CORPORATION

Sec. 501. Establishment of corporation.
Sec. 502. Board of directors.
Sec. 503. Officers and employees.
Sec. 504. Nonprofit and nonpolitical nature of the corporation.
Sec. 505. Purpose and activities of corporation.
Sec. 506. Report to Congress.
Sec. 507. Administrative matters.
Sec. 508. Rail Infrastructure Finance Trust.

TITLE VI—RAIL DEVELOPMENT GRANT PROGRAMS

Sec. 601. Intercity passenger rail development grant program.
Sec. 602. Freight rail infrastructure development grant program.
Sec. 603. High priority projects grant program.
Sec. 604. Grant program requirements and limitations.
Sec. 605. Standards and conditions.
Sec. 606. Grant program funding.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

Sec. 701. Authorization of Appropriations.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure more adequate financing of infrastructure projects for the national rail transportation system through—

(A) the establishment of the nonprofit Rail Infrastructure Finance Corporation to provide financial support for rail infrastructure improvement projects by issuing qualified rail transportation bonds; and

(B) the provision of appropriate tax treatment of qualified rail transportation bonds so issued;

(2) to create a partnership between public and private entities to promote freight and passenger rail infrastructure development that benefits the public;

(3) to provide resources to States and groups of States for rail capital projects that result in a safe, secure, and efficient rail transportation system;

(4) to enhance Federal and State rail transportation policy and planning;

(5) to promote intermodal transportation investment, planning, and coordination; and

(6) to reauthorize the National Railroad Passenger Corporation and reaffirm the Federal commitment to a national system of intercity passenger 191 transportation.

TITLE I—RAIL TRANSPORTATION SECURITY

SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) ASSESSMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall assess the security risks associated with freight and intercity passenger rail transportation and develop prioritized recommendations for—

(A) improving the security of rail infrastructure and facilities, terminals, tunnels, rail bridges, rail switching areas, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying chemical and biological weapon detection equipment;

(C) training employees in terrorism response activities; and

(D) identifying the immediate and long-term economic impact of measures that may be required to address those risks.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall include a review of any actions already taken or prospective actions necessary to address identified security issues by both public and private entities.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Secretary shall consult with rail management, rail labor, facility owners and operators, and public safety officials (including officials responsible for responding to emergencies).

(C) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report, without compromising national security, containing the assessment and prioritized recommendations required by subsection (a).

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $515,000,000 for fiscal year 2004 to carry out this section, implement the measures contained in the Secretary's prioritized recommendations, and award grants for purposes identified in the assessment in subsection (a), such sums to remain available until expended.

SEC. 102. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

TITLE II—FEDERAL RAIL POLICY

SEC. 201. FEDERAL RAIL POLICY ENHANCEMENT

Section 103 is amended to read as follows:

''§ 103. Federal Railroad Administration

''(a) IN GENERAL.—The Federal Railroad Administration is an administration in the Department of Transportation.

''(b) ADMINISTRATOR.—The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

''(c) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

''(d) POWERS AND DUTIES.—

''(1) IN GENERAL.—The Administrator shall carry out—

''(A) the duties and powers related to rail road safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and chapter 213 of this title in carrying out chapters 203 through 211;

''(B) the duties and powers related to railroad policy and development under subsection (e); and

''(C) any additional duties and powers prescribed by the Secretary.

''(2) TRANSFERS.—A duty or power specified by paragraph (1)(A) of this subsection may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

''(3) CONTRACTS, GRANTS, LEASES, COOPERATIVE AGREEMENTS, AND SIMILAR TRANSACTIONS.—Subject to the provisions of subtitle I of title 40 and title III of the Federal

Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this paragraph shall be carried out by the Administrator.

''(e) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

''(1) provide assistance to States in developing State rail plans prepared under section 22501 and review all State rail plans submitted under such section 22501;

''(2) develop a long range national rail plan that is consistent with approved State rail plans, the 50-year Intermodal Blueprint developed under section 5503(e), and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

''(3) develop a preliminary national rail plan within a year after the date of enactment of the Arrive 21 Act;

''(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;–

''(5) support rail intermodal development and high-speed rail development, including high speed rail planning under section 205;

''(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

''(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

''(f) PERFORMANCE GOALS AND REPORTS.—

''(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under section 103(e) of this title, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

''(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under section 103(e).

''(3) SUBMISSION WITH PRESIDENT'S BUDGET.—Beginning with fiscal year 2005 and each fiscal year thereafter, the Secretary shall submit to Congress, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.''.

SEC. 202. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''§ 24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

''(3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, and other rail networks; and

''(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out under this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger and freight service;

''(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2009 to carry out the rail cooperative research program under section 24910 of title 49, United States Code.

SEC. 203. STATE RAIL PLANS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

''CHAPTER 225—STATE RAIL PLANS AND HIGH PRIORITY PROJECTS

''Sec.
''22501. Authority
''22502. Purposes
''22503. Transparency; coordination; review
''22504. Content
''22505. Approval
''22506. High priority projects
''22507. Definitions

''§ 22501. Authority

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for approval; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22502. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to preserve, enhance, or expand rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

''§ 22503. Transparency; coordination; review

''(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives

by regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

''(c) ANNUAL REVIEWS.—Each State shall transmit an annual report on its plan to the Secretary of Transportation. The report shall include, for the year preceding the year in which submitted, the following matters:

''(1) A review of progress made, and actions taken, under the plan during the year, including an update on the budget, schedule, and financing for each project on the freight or passenger rail capital project list compiled under section 22504(a) of this title.

''(2) Any modifications made in the plan after approval of the plan by the Secretary or after the submission of the most recent annual report on the plan to the Secretary, including any modifications made to the priority freight or passenger rail capital list required by section 22504(b).

''(d) APPROVAL OF MODIFIED PLANS.—Modifications of a State rail plan that are determined substantive by the Secretary, including any modification to a priority freight or passenger rail capital project list required by section 22504(b), is subject to approval (for the purposes of this chapter) by the Secretary.

''§ 22504. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An evaluation of the existing overall rail transportation system and rail services and facilities within the State, a prioritization of such services and facilities in terms of their contributions to the State's rail and transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service, containing an overview of the transportation services provided by those lines, their ownership, operating characteristics, and the general state of their infrastructure.

''(3) A statement of the State's freight and passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

''(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(5) A long-range rail service and investment program for current and future freight and passenger services in the State that meets the requirements of subsection (b).

''(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail service and rail infrastructure development.

''(7) A statement of rail service issues within the State, such as congestion and capacity, and current system deficiencies on a regional, intrastate, and interstate basis, that reflects consultation with neighboring States and describes any coordination of regional rail service.

''(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

''(9) A description of new technology that relates to rail transportation within the State, including logistics and process improvements.

''(10) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

''(11) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

''(12) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

''(13) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail service and investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two ranked lists for rail capital projects, 1 for freight rail capital projects and 1 for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The ranked list of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the ranked list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Competitive and service impacts for rail carriers and shippers.

''(G) Preservation of rail service.

''(H) Economic and employment impacts.

''(I) Projected ridership and other service measures for passenger rail projects.

''(c) WAIVER.—The Secretary may waive any requirement of subsection (a) upon application under circumstances that the Secretary determines appropriate.

§ 22505. Approval

''(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital projects under the plan—

''(A) the project meets all safety and environmental requirements including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right of way directly affected by the project that provides for the State to proceed with the project; and

''(3) the content of the plan is coordinated with—

''(A) State transportation plans developed pursuant to the requirements of section 135 of title 23; and

''(B) the national rail plan, the 50-year intermodal blueprint developed under section 5503(e) of this title, (if either is available) and any other transportation plan of the Federal Government that is required by law deemed relevant by the Secretary.

''(b) PROCEDURES FOR STATE RAIL PLAN SUBMISSION AND APPROVAL.—The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements and procedures for resubmittal if a State rail plan is disapproved. The procedures shall provide for the Secretary to review a State rail plan and issue a record of decision of approval or disapproval, with comment, on such plan within 180 days after the plan is submitted.

''§ 22506. High priority projects

''(a) DESIGNATION OF PROJECTS.—In reviewing State rail plans, the Secretary of Transportation may designate as a high priority project any project submitted by a State or group of States that meets both of the following criteria:

''(1) The project focuses on key rail congestion points that are—

''(A) selected by the Secretary on the basis of national benefits to the rail transportation system; and

''(B) coordinated with the national rail plan, if that plan is available.

''(2) The project is on a ranked list of priority freight and passenger rail capital projects that is included in a State rail plan under section 22504(a)(5) of title 49, United States Code, unless this criterion is waived by the Secretary.

''(b) PREFERRED PROJECTS.—The Secretary, in designating high priority projects, shall give preference to—

''(1) projects that have national significance for—

''(A) improving the national rail network and the Nation's transportation system;

''(B) ensuring particularly high levels of safety;

''(C) increasing intermodal connectivity by providing or improving direct connections between rail facilities and other modes of transportation;

''(D) significantly improving highway, aviation, or maritime capacity, congestion, or safety;

''(E) improving intercity passenger rail service by increasing ridership, reducing trip time, or other significant enhancements;

''(F) improving both intercity passenger rail and freight rail services simultaneously;

''(G) enhancing freight rail service for shippers;

''(H) causing positive economic and employment results;

''(I) producing significant environmental or community benefits;

''(J) having received financial commitments and other support from non-Federal entities such as States, local governments, or private entities;

''(K) enhancing international trade;

''(L) enhancing national security; or

''(M) employing positive train control technologies; and

''(2) projects that are at the stage of preparation that all pre-commencement compliance with environmental protection requirements has been completed and the projects are ready to commence.

''(c) REGIONAL BALANCE AND COMPATIBILITY.—The Secretary, in designating high priority projects, shall ensure that—

''(1) the geographic distribution of the designated high priority projects is balanced

among the geographic regions of the United States and a disproportionated number of such projects is not concentrated in a single State; and

''(2) all projects are—

''(A) compatible with State transportation plans developed pursuant to the requirements of section 135 of title 23; and

''(B) carried out in conformance with the national rail plan.

''(d) ADDITIONAL PROJECTS.—The Secretary may designate projects submitted to the Office by the National Railroad Passenger Corporation, either independently or in conjunction with a State or group of States, as a high priority project. Any such projects shall be subject to the same designation and selection criteria as apply under this section, except the criteria set forth in subsections (a)(2) and (c)(2) of this section.

''§ 22507. Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit' means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary. The Secretary may seek the advice of the states and rail carriers in further defining this term.xxx

''(2) PUBLIC BENEFIT.—The term 'public benefit' means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary. The Secretary make seek the advice of the States and rail carriers in further defining this term.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

''(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V is amended by inserting after the item relating to chapter 223 the following:

''225. STATE RAIL PLANS AND HIGH PRIORITY PROJECTS ...... 22501.''.

2SEC. 204. INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION POLICY.

(a) IN GENERAL.—Chapter 261 is amended by inserting before section 26101 the following:

''§ 26100. Policy.

''The Congress declares that it is the policy of the United States that designated high-speed railroad passenger transportation corridors are the building blocks of an interconnected National railroad passenger system.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 261 is amended by inserting before the item relating to section 26101 the following:

''26100. Policy''.

SEC. 205. HIGH-SPEED RAIL CORRIDOR PLANNING.

(a) IN GENERAL.—Section 26101(a) is amended to read as follows:

''(a) PLANNING.—

''(1) IN GENERAL.—The Secretary of Transportation shall provide planning assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23. The Secretary shall establish an application and qualification process for applicants eligible for assistance under this section.

''(2) SECRETARY MAY PROVIDE DIRECT OR FINANCIAL ASSISTANCE.—The Secretary may provide planning assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake planning activities approved by the Secretary. Twenty percent of the publicly financed planning costs associated with projects assisted under this chapter shall come from non-Federal sources. State matching contributions may not be derived, directly or indirectly, from Federal funds.

''(d) RECORD OF DECISION.—Upon completion of planning activities funded under this section, the Secretary shall make a recommendation on the record of whether to proceed with the implementation of the corridor.''.

(b) CONFORMING AND OTHER AMENDMENTS TO SECTION 26101.—Section 26101 is further amended—

(1) by striking subsection (c)(2) and inserting the following:

''(2) the extent to which the proposed planning focuses on high-speed rail systems, giving a priority to systems which will achieve sustained speeds of 125 miles per hour or greater and projects involving dedicated rail passenger rights-of-way;'';

(2) by inserting ''and'' after the semicolon in subsection (c)(12);

(3) by striking ''completed; and'' in subsection (c)(13) and inserting ''completed.''; and

(4) by striking subsection (c)(14).

(c) CONFORMING AMENDMENT.—Section 26105(2)(A) is amended by striking ''more than 125 miles per hour;'' and inserting ''90 miles per hour or more;''.

(d) FINANCIAL ASSISTANCE TO INCLUDE LOANS AND LOAN GUARANTEES—.Section 26105(1) is amended by inserting ''loans, loan guarantees,'' after ''contracts,''.

(e) SPECIAL TRANSPORTATION CIRCUMSTANCES.—Section 26101 is amended by adding at the end the following:

''(d) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available for planning assistance to providing appropriate transportation-related assistance in any State in which the rail transportation system—

''(1) is not physically connected to rail systems in the continental United States; and

''(2) may not otherwise qualify for high speed rail implementation assistance due to the constraints imposed on the railway infrastructure in that State due to the unique characteristics of the geography of that State or other relevant considerations, as determined by the Secretary.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $50,000,000 for each of fiscal years 2004 through 2009 to provide planning assistance under section 26101(a) of title 49, United States Code.

SEC. 206. DESIGNATED HIGH-SPEED RAIL CORRIDORS.

(a) IN GENERAL.—The Secretary of Transportation shall give priority in allocating funds authorized by section 26104 of title 49, United States Code, to designated high-speed rail corridors.

(b) DESIGNATED HIGH-SPEED RAIL CORRIDORS.—For purposes of subsection (a), the following shall be considered to be designated high-speed rail corridors:

(1) California Corridor connecting the San Francisco Bay area and Sacramento to Los Angeles and San Diego.

(2) Chicago Hub Corridor Network with the following spokes:

(A) Chicago to Detroit.

(B) Chicago to Minneapolis/St. Paul, Minnesota, via Milwaukee, Wisconsin.

(C) Chicago to Kansas City, Missouri, via Springfield, Illinois, and St. Louis, Missouri.

(D) Chicago to Louisville, Kentucky, via Indianapolis, Indiana, and Cincinnati, Ohio.

(E) Chicago to Cleveland, Ohio, via Toledo, Ohio.

(F) Cleveland, Ohio, to Cincinnati, Ohio, via Columbus, Ohio.

(3) Empire State Corridor from New York City, New York, through Albany, New York, to Buffalo, New York.

(4) Florida High-Speed Rail Corridor from Tampa through Orlando to Miami.

(5) Gulf Coast Corridor from Houston Texas, through New Orleans, Louisiana, to Mobile, Alabama, with a branch from New Orleans, through Meridian, Mississippi, and Birmingham, Alabama, to Atlanta, Georgia.

(6) Keystone Corridor from Philadelphia, Pennsylvania, through Harrisburg, Pennsylvania, to Pittsburgh, Pennsylvania.

(7) Northeast Corridor from Washington, District of Columbia, through New York City, New York, New Haven, Connecticut, and Providence, Rhode Island, to Boston, Massachusetts, with a branch from New Haven, Connecticut, to Springfield, Massachusetts.

(8) New England Corridor from Boston, Massachusetts, to Portland and Auburn, Maine, and from Boston, Massachusetts, through Concord, New Hampshire, and Montpelier, Vermont, to Montreal, Quebec.

(9) Pacific Northwest Corridor from Eugene, Oregon; through Portland, Oregon, and Seattle, Washington, to Vancouver, British Columbia.

(10) South Central Corridor from San Antonio, Texas, through Dallas/Fort Worth to Little Rock, Arkansas, with a branch from Dallas/Fort Worth through Oklahoma City, Oklahoma, to Tulsa, Oklahoma.

(11) Southeast Corridor from Washington, District of Columbia, through Richmond, Virginia, Raleigh, North Carolina, Columbia, South Carolina, Savannah, Georgia, and Jessup, Georgia, to Jacksonville, Florida, with—

(A) a branch from Raleigh, North Carolina, through Charlotte, North Carolina, and Greenville, South Carolina, to Atlanta, Georgia; a branch from Richmond, to Hampton Roads/Norfolk, Virginia;

(B) a branch from Charlotte, North Carolina, to Columbia, South Carolina, to Charleston, South Carolina;

(C) a connecting route from Atlanta, Georgia, to Jessup, Georgia;

(D) a connecting route from Atlanta, Georgia, to Charleston, South Carolina; and

(E) a branch from Raleigh, North Carolina, through Florence, South Carolina, to Charleston, South Carolina, and Savannah, Georgia, with a connecting route from Florence, South Carolina, to Myrtle Beach, South Carolina.

(12) Southwest Corridor from Los Angeles, California, to Las Vegas, Nevada.

(c) OTHER HIGH-SPEED RAIL CORRIDORS.—For purposes of this section, subsection (b)—

(1) does not limit the term ''designated highspeed rail corridor'' to those corridors described in subsection (b); and

(2) does not limit the Secretary of Transportation's authority—

(A) to designate additional high-speed rail corridors; or

(B) to terminate the designation of any high-speed rail corridor.

SEC. 207. REHABILITATION, IMPROVEMENT, AND SECURITY FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

''(7) 'railroad' has the meaning given that term in section 20102 of title 49, United States Code; and''.

(b) GENERAL AUTHORITY.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking ''Secretary may provide direct loans and loan guarantees to State and local governments,'' in subsection (a) and inserting ''Secretary shall provide direct loans and loan guarantees to State and local governments, interstate compacts entered into under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C 24101 note),'';

(2) by striking ''or'' in subsection (b)(1)(B);

(3) by redesignating subparagraph (C) of subsection (b)(1) as subparagraph (D); and

(4) by inserting after subparagraph (B) of subsection (b)(1) the following:

''(C) to acquire, improve, or rehabilitate rail safety and security equipment and facilities; or''.

(c) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended by adding at the end ''The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for a single loan or loan guarantee.''.

(d) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by adding after subparagraph (D) the following new subparagraph:

''(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and''; and

(2) by adding at the end of paragraph (4) the following: ''A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for a single loan or loan guarantee.''.

(e) CONDITIONS OF ASSISTANCE.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) by striking ''offered;'' in subsection (f) (2) (A) and inserting ''offered, if any;'';

(2) by inserting ''(1)'' before ''The Secretary'' in subsection (h) and redesignating paragraphs (1), (2), and (3) of that subsection as subparagraphs (A), (B), and (C); and

(3) by adding at the end of subsection (h) the following: .

''(2) The Secretary may not require an applicant for a direct loan or loan guarantee under this section to provide collateral.

''(3) The Secretary may not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

''(4) The Secretary shall require recipients of direct loans or loan guarantees under this section to apply the standards of subsections (b) and (e) of section 22301 of title 49, United States Code, to their projects.

''(5) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

''(A) the standards of section 24312, as in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a); and

''(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed by direct loans or loan guarantees.''.

(f) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

''(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.''.

(g) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended—

(1) by adding at the end of subsection (k) the following: ''Funds received by the Secretary under the preceding sentence shall be credited to the appropriation from which the expenses of making such appraisals, determinations, and findings were incurred.''; and

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

''(m) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.''.

(h) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation Web site the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822).

(i) OPERATORS DEEMED RAIL CARRIERS; LOANS AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), as amended by subsection (f), is amended by adding at the end the following:

''(j) OPERATORS DEEMED RAIL CARRIERS.—Any entity providing railroad transportation (within the meaning of section 20102) that begins operations after the date of enactment of the Arrive 21 Act and that uses property acquired pursuant to this section shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

''(k) LOAN AND LOAN GUARANTEES FOR NON-RAILROAD ENTITIES.—Notwithstanding any other provision of law, entities other than rail companies shall be eligible for loans and loan guarantees under this section.''.

SEC. 208. REPAYMENT OF LOAN TO NATIONAL RAILROAD PASSENGER CORPORATION.

The Secretary of Transportation may not collect any payments of principal or interest for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). There are authorized to be appropriated to the Secretary for fiscal year 2004 $100,000,000 for the purpose of repaying that loan to the Secretary of the Treasury.

TITLE III—INTERMODAL POLICY

SEC. 301. 50-YEAR INTERMODAL BLUEPRINT.

(a) IN GENERAL.—Section 5503 is amended—

(1) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively; and

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

''(e) 50-YEAR INTERMODAL BLUEPRINT.—

''(1) IN GENERAL.—The Secretary, in consultation with the advisory board established under section 24910(c) of this title, and other Federal, State, local, and private concerns, shall create a document to be known as the '50-year Intermodal Blueprint', which shall—

''(A) set forth a plan to develop a national intermodal transportation system, including all major modes of transportation;

''(B) describe emerging trends and opportunities to fulfill the future passenger and freight transportation needs of the United States;

''(C) illustrate and estimate the potential results of current policies, possible policy improvements, and directives for achieving the goals set forth in the document;

''(D) forecast the impact of current and future transportation policies on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and the quality of life in the United States; and

''(E) identify sources of funding to implement the plan described in subparagraph (A).

''(2) BIENNIAL PROGRESS REPORTS.—The Director, working with the Department of Transportation Inspector General, shall issue a 50-year Intermodal Blueprint progress report every 2 years and transmit a copy to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In the report, the Director shall—

''(A) disclose the results of an audit of the progress made toward achieving the goals set forth in the 50-year Intermodal Blueprint;

''(B) describe successes, challenges, and obstacles with respect to the 50-year Intermodal Blueprint;

''(C) suggest any changes to the 50-year Intermodal Blueprint that the Director deems necessary or appropriate to reflect changed circumstances or new developments;

''(D) make recommendations on ways to increase intermodal planning and cooperation throughout the national transportation system and within the Department of Transportation; and

''(E) identify successful funding mechanisms and make recommendations for new approaches to funding intermodal transportation facilities and services.

''(3) SEXENNIAL REVISIONS.—The Secretary, in consultation with Federal, State, local, and private concerns, shall revise and republish the 50-year Intermodal Blueprint every 6 years.

''(f) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Secretary, working with the Bureau of Transportation Statistics, and taking into account the work of the rail cooperative research program established under section 24910(a) of this title, shall—

''(1) formulate a methodology for measuring the impact of intermodal transportation on—

''(A) the environment;

''(B) public health and welfare;

''(C) energy consumption;

''(D) the operation and efficiency of the transportation system;

''(E) congestion; and

''(F) the economy and employment; and

''(2) undertake a comprehensive review of the impact of international trade on intermodal transportation and existing intermodal transportation infrastructure.''.

(b) RETAINED FUNDS.—Section 5568 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) 50-YEAR INTERMODAL BLUEPRINT.—There are authorized to be appropriated to the Secretary $1,000,000 for each of fiscal years 2004 through 2009 to carry out section 5503(e).''.

SEC. 302. INTERMODAL TRANSPORTATION POLICY.

(a) POLICY STANDARDS.—Section 302(e) is amended by striking ''system'' and inserting ''system, including freight and passenger rail service and maritime transportation, including such transportation via inland waterways,''.

(b) STATE TRANSPORTATION IMPROVEMENT PROGRAMS.—Section 135(f)(4) of title 23, United States Code, is amended by inserting ''a State rail plan developed under chapter 225 of title 49,'' after ''134,''.

TITLE IV—AMTRAK AUTHORIZATIONS

SEC. 401. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, D.C.;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of highspeed service;

''(C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Arrive 21 Act; and

''(D) short-distance corridors or routes operated by Amtrak.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

''§ 24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this Act is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

SEC. 402. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury shall work with the Secretary of Transportation and Amtrak to restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation, Amtrak may not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by Amtrak or any subsidiary for working capital purposes.

(c) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of redeeming or restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government. Payments for such redemption may be made after October 1, 2004, in either a single payment or a series of payments, but in no case shall the repayment period extend beyond September 30, 2008.

(d) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2005 through 2008 to restructure or redeem Amtrak's secured debt.

(f) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2004, $116,900,000.

(B) For fiscal year 2005, $109,500,000.

(C) For fiscal year 2006, $114,700,000.

(D) For fiscal year 2007, $202,900,000.

(E) For fiscal year 2008, $164,300,000.

(F) For fiscal year 2009, $155,800,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2004, $162,600,000.

(B) For fiscal year 2005, $151,300,000.

(C) For fiscal year 2006, $146,300,000.

(D) For fiscal year 2007, $137,500,000.

(E) For fiscal year 2008, $125,300,000.

(F) For fiscal year 2009, $117,100,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit revised recommendations to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

SEC. 403. GENERAL AMTRAK AUTHORIZATIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.—

(1) TITLE 49 AMENDMENTS.—CHAPTER 241 IS AMENDED

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(3) COMMON STOCK REDEMPTION DATE.—Section 415 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24304 nt) is amended by striking subsection (b).

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481(b) and 491(b)) for each of fiscal years 2004 through 2008.

(c) FINANCIAL POWERS.—Section 415(d) of the Amtrak Reform and Accountability Act of 1997 by adding at the end, the following:

''(3) This section does not affect the applicability of section 3729 of title 31, United States Code, to claims made against Amtrak.''.

SEC. 404. EXCESS RAILROAD RETIREMENT.

Beginning in fiscal year 2004, the Secretary of the Treasury each year shall pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. There are authorized to be appropriated such sums as may be necessary in each fiscal year beginning after fiscal year 2004 for these payments.

SEC. 405. AUTHORIZATIONS FOR ENVIRONMENTAL COMPLIANCE AND STATION EVIPROVEMENTS.

(a) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak in order to comply with environmental regulations the following amounts:

(A) For fiscal year 2004, $18,800,000.

(B) For fiscal year 2005, $21,700,000.

(C) For fiscal year 2006, $22,300,000.

(D) For fiscal year 2007, $15,100,000.

(E) For fiscal year 2008, $15,900,000.

(F) For fiscal year 2009, $16,000,000.

(b) CAPITAL IMPROVEMENTS TO STATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital improvements to stations, including an initial assessment of the full set of accessibility needs across the national rail passenger transportation system and improved accessibility for the elderly and people with disabilities and in Amtrak facilities and stations, the following amounts:

(A) For fiscal year 2004, $17,100,000.

(B) For fiscal year 2005, $19,800,000.

(C) For fiscal year 2006, $19,800,000.

(D) For fiscal year 2007, $19,000,000.

(E) For fiscal year 2008, $19,000,000.

(F) For fiscal year 2009, $19,000,000.

(2) STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.—Amtrak shall evaluate the improvements necessary to make. all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5)), and the earliest practicable date when such improvements can be made. Amtrak shall submit the survey to the Senate Committee on

Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2005, along with recommendations for funding the necessary improvements.

SEC. 406. TUNNEL LIFE SAFETY.

(a) LIFE SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for fiscal year 2004:

(1) $677,000,000 for the 6 New York tunnels built in 1910 to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers.

(2) $57,000,000 for the Baltimore & Potomac tunnel built in 1872 to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades.

(3) $40,000,000 for the Washington, DC, Union Station tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings to improve ventilation, communication, lighting, and passenger egress upgrades.

(b) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $3,000,000 for fiscal year 2004 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers if feasible.

(d) AVAILABILITY OF FUNDS. Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 407. AUTHORIZATION FOR CAPITAL AND OPERATING EXPENSES.

(a) OPERATING EXPENSES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2004, $581,000,000.

(2) For fiscal year 2005, $567,000,000.

(3) For fiscal year 2006, $558,000,000.

(4) For fiscal year 2007, $529,000,000.

(5) For fiscal year 2008, $522,000,000.

(6) For fiscal year 2009, $522,000,000.

(b) CAPITAL BACKLOG AND UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital expenses, the following amounts:

(1) For fiscal year 2004, $674,000,000.

(2) For fiscal year 2005, $765,000,000.

(3) For fiscal year 2006, $733,000,000.

(4) For fiscal year 2007, $604,000,000.

(5) For fiscal year 2008, $560,000,000.

(6) For fiscal year 2009, $565,000,000.

(c) REDUCTIONS.—Amounts authorized under subsection (b) shall be reduced by amounts equal to grants provided by the Rail Infrastructure Finance Corporation under title VI of this Act upon receipt to Amtrak for capital requirements and expenditures listed in the annual budget and 5 Year Financial Plan required under section 413.

SEC. 409. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 405, 406, and 407.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY PROCESS.—The Secretary shall complete the review of a grant request and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request.

(2) INCOMPLETE OR DEFICIENT REQUESTS.—If the Secretary disapproves the request or determines that the request is incomplete or deficient, the Secretary shall immediately notify Amtrak of the reason for disapproval or the incomplete items or deficiencies. Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 409. STATE-SUPPORTED ROUTES.

The Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the chief executive officer of each State and the District of Columbia, shall develop a formula for funding the operating costs of trains operating on routes not in excess of 750 miles in length that—

(1) is equitable and fair; and

(2) ensures, within 5 years after the date of enactment of this Act, equal treatment of all States (and the District of Columbia) and groups of States (including the District of Columbia).

SEC. 410. RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) RE-ESTABLISHMENT OF NORTHEAST CORRIDOR SAFETY COMMITTEE.—The Secretary of Transportation shall re-establish the Northeast Corridor Safety Committee authorized by section 24905(b) of title 49, United States Code.

(b) TERMINATION DATE.—Section 24905(b)(4) is amended by striking ''January 1, 1999,'' and inserting ''January 1, 2009,''.

SEC. 411. AMTRAK BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 24302 is amended to read as follows:

''§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

''(A) The President of Amtrak.

''(B) The Secretary of Transportation.

''(C) 7 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with experience and qualifications in or directly related to rail transportation, including representatives of freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, consumers of passenger rail transportation, and State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate and should ensure adequate and balanced representation of the major geographic regions of the United States.

''(3) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual's successor is appointed and qualified. Not more than 4 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

''(c) VACANCIES.— A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

(b) EFFECTIVE DATE FOR DIRECTORS' PROVISION.—The amendment made by subsection (a) shall take effect on October 1, 2003. The members of the Amtrak Reform Board may continue to serve until 3 directors appointed by the President under section 24302(a) of title 49, United States Code, as amended by subsection (a), have qualified for office.

SEC. 412. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM FOR AMTRAK OPERATIONS BY INDEPENDENT AUDITOR.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant with experience in railroad accounting—

(1) to assess Amtrak's financial accounting and reporting system and practices;

(2) to design and assist Amtrak in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the

House of Representatives Committee on Transportation and Infrastructure.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2004 to carry out subsection (a), such sums to remain available until expended.

SEC. 413. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak board of directors shall submit an annual budget for Amtrak, and a 5-year financial plan for the fiscal year to which that budget relates and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for nonpassenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as: the ability of the federal government to adequately meet capital and operating requirements, Amtrak's access to long-term and short-term capital markets, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service.

(8) lump sum expenditures of $10,000,000 or more and sources of funding.

(9) estimates of long-term and short-term debt and associated principle and interest payments (both current and anticipated);

(10) annual cash flow forecasts; and

(11) a statement describing methods of estimation and significant assumptions.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b) with respect to a 5-year financial plan, Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices; and

(2) use the categories specified in the financial accounting and reporting system developed under section 412 when preparing its 5-year financial plan.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5–year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5–year financial plan within 180 days after receiving it from Amtrak.

SEC. 414. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) REVIEW.—The Secretary of Transportation shall, in consultation with the Federal Railroad Administration, execute a contract to obtain the services of an independent auditor or consultant to research and define Amtrak's past and current methodologies for determining intercity passenger rail routes and services.

(b) RECOMMENDATIONS.—The independent auditor or consultant shall recommend objective methodologies for determining such routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit recommendations received under subsection (b) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this Act to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

SEC. 415. METRICS AND STANDARDS.

The Administrator of the Federal Railroad Administration shall, in consultation with Amtrak and host railroads, develop new or improve existing metrics and minimum standards for measuring the service quality of intercity train operations, including on-time performance, on-board services, stations, facilities, equipment, and other services.

SEC. 416. ON–TIME PERFORMANCE.

Section 24308 is amended by adding at the end the following:

''(f) ON–TIME PERFORMANCE AND OTHER STANDARDS.—If the on-time performance of any intercity passenger train averages less than 80 percent for any consecutive 6–month period, or the service quality of intercity train operations for which minimum standards are established under section 415 of the Arrive 21 Act fails to meet those standards, Amtrak may petition the Surface Transportation Board to investigate whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over the tracks of which the intercity passenger train operates, or by a regional authority providing commuter service, if any. In carrying out such an investigation, the Surface Transportation Board shall obtain information from all parties involved and make recommendations regarding reasonable measures to improve the service, quality, and on-time performance of the train.''.

TITLE V—RAIL INFRASTRUCTURE FINANCE CORPORATION

SEC. 501. ESTABLISHMENT OF CORPORATION.

There is established a nonprofit corporation, to be known as the ''Rail Infrastructure Finance Corporation''. The Rail Infrastructure Finance Corporation is not an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this title and title VI, and, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 502. BOARD OF DIRECTORS.

(a) APPOINTMENT.—The Rail Infrastructure Finance Corporation shall have a Board of Directors consisting of 9 members appointed by the President, by and with the advice and consent of the Senate. The President shall submit all nominations for the initial Board not less than 180 days after the date of enactment of this Act. Not more than 5 members of the Board may be members of the same political party.

(b) MEMBERSHIP QUALIFICATIONS.—

(1) IN GENERAL.—The 9 members of the Board shall be appointed from among citizens of the United States (not regular full-time employees of the United States) who are eminent in the fields of rail transportation, rail financing, and intermodal transportation planning, and the financing and management of large-scale, long-term public-private cooperative projects.

(2) REPRESENTATION OF SPECIFIC INTERESTS.—Of the 9 members of the Board, 8 of the members shall be selected as follows:

(A) 1 member from among individuals who represent the interests of freight rail transportation.

(B) 1 member from among individuals who represent the interests of intermodal transportation.

(C) 1 member from among individuals who represent the interests of passenger rail transportation.

(D) 1 member from among individuals who represent the interests of the States.

(E) 1 member from among individuals who represent the interests of intercity passenger rail users.

(F) 1 member from among individuals who represent the interests of organized rail labor.

(G) 2 members from among persons who are involved in finance.

(c) INCORPORATION.—The members initially appointed to the Board of Directors shall serve as incorporators and, upon the establishment of a quorum, shall take whatever actions are necessary to establish the Corporation under the laws of Delaware.

(d) TERMS OF OFFICE.—Members of the Board shall be appointed for terms of 6 years. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.

(e) VACANCIES.—A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed.

(f) ATTENDANCE REQUIRED.—Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill the resulting vacancy not later than 90 days after such vacancy is determined by the Chairman of the Board.

(g) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Members of the Board shall annually elect 1 of their members to be Chairman and elect 1 or more of their members as a Vice Chairman or Vice Chairmen.

(h) COMPENSATION.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States. They shall, while

attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this Act, be entitled to receive compensation at the rate of $300 per day, including traveltime. No Board member shall receive compensation of more than $10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.

(i) MEETINGS OPEN TO PUBLIC.—All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as the Board may establish.

(j) QUORUM AND PROCEEDINGS.—Five members of the Board shall constitute a quorum for the Board to conduct business. All decisions of the Board shall be entered upon the records of the Board.

SEC. 503. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Rail Infrastructure Finance Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers shall serve at the pleasure of the Board. An officer of the corporation shall not be considered to be an officer or employee of the United States by virtue of such office.

(b) NONPARTISAN NATURE OF APPOINTMENTS.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

SEC. 504. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) STOCK.—The Rail Infrastructure Finance Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) NO PRIVATE BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) POLITICAL ACTIVITY PROHIBITED.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(d) CONFLICTS OF INTEREST.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she has a direct or indirect financial interest. Board members shall recuse themselves from Board decisions that directly affect either them or entities they represent regarding grants and other financial assistance provided to States by the Board.

SEC. 505. PURPOSE AND ACTIVITIES OF CORPORATION.

(a) PURPOSE.—The Rail Infrastructure Finance Corporation shall, through the issuance of qualified rail infrastructure bonds in accordance with section 54 of the Internal Revenue Code of 1986 and this title, provide financial support for rail transportation capital projects under title VI of this Act.

(b) BOND ISSUANCE AUTHORITY.—

(1) IN GENERAL.—In order to carry out its purposes, the Corporation is authorized to issue qualified rail infrastructure bonds (as defined in section 54(e) of the Internal Revenue Code of 1986) during the 6-year period beginning on the day after the date of enactment of this Act.

(2) LIMITATION.—The total face amount of the bonds outstanding under paragraph (1) at any time may not exceed $30,000,000,000.

(3) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(B) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(C) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(4) AUTHORITY.—To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation under the laws of the State of Delaware.

(c) FEDERAL ASSISTANCE.—The Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any department or agency of the Federal Government, but only to the extent permitted by law and to the extent necessary to carry out the purpose set forth in subsection (a) and the activities described in subsection (b).

(d) STATUS UNDER FEDERAL SECURITIES LAWS.—

(1) IN GENERAL.—For purposes of the Securities Act of 1933, the Securities Exchange Act of 1934 or the Trust Indenture Act of 1939, the Rail Infrastructure Finance Corporation shall not be considered an agency or instrumentality of the United States or any State or Territory thereof nor an entity described in section 3(a)(4) of the Securities Act of 1933 and shall not be entitled to rely on any exemption from those laws. Any security offered or sold or guaranteed by the Rail Infrastructure Finance Corporation may not be offered or sold in reliance on any exemption from registration under the Securities Act of 1933, unless exempted by rule or regulation of the Securities and Exchange Commission. For so long as the Rail Infrastructure Finance Corporation has any securities outstanding, it may not rely on the rules promulgated under the Securities Exchange Act of 1934 to voluntarily terminate or suspend the Rail Infrastructure Finance Corporation's obligations to comply with the reporting requirements of the Securities Exchange Act of 1934 with regard to any of its outstanding securities and the provisions of section 15(d)(6) of the Securities Exchange Act of 1934 shall not apply to the Rail Infrastructure Finance Corporation, unless exempted by rule, regulation, or order of the Securities and Exchange Commission.

(2) RELATIONSHIP TO FEDERAL SECURITIES LAWS.—Except as provided in paragraph (1), no provision of this section or any regulation issued by any other Federal agency shall supercede or otherwise affect the application of the Federal securities laws (as such term is defined in section 2(a)(47) of the Securities Exchange Act of 1934) or the rules, regulations, or orders of the Securities and Exchange Commission promulgated under those laws.

SEC. 506. REPORT TO CONGRESS.

(a) IN GENERAL.—On or before May 15 of each year, the Rail Infrastructure Finance Corporation shall submit an annual report for the fiscal year ending on September 30 of the preceding year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this title and such recommendations as the Corporation deems appropriate.

(b) AVAILABILITY FOR TESTIMONY.—The officers and directors of the Corporation shall be available to testify before those committees with respect to such report or any other matter which such committees may determine.

SEC. 507. ADMINISTRATIVE MATTERS.

(a) BUDGET.—The Rail Infrastructure Finance Corporation shall establish an annual budget for the Corporation, including the Rail Infrastructure Investment Account under subsection (c).

(b) IMPLEMENTATION PLAN.—

(1) REQUIREMENT FOR PLAN.—The Corporation shall conduct a study and prepare a plan on how the Corporation can best achieve the purposes and fulfill the requirements of this title.

(2) CONSULTATION.—In preparing the plan, the Corporation may consult with representatives of State and local governments, railroads, and other similar entities.

(3) OTHER REQUIREMENTS.—The plan, which shall be based on the conclusions resulting from the study conducted under paragraph (1), shall be submitted by the Corporation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 180 days after the date on which the Corporation is incorporated. Unless directed otherwise by law, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.

(c) RAIL INFRASTRUCTURE INVESTMENT ACCOUNT.—

(1) ESTABLISHMENT.—The Board of Directors for the Corporation shall establish an account to be known as the Rail Infrastructure Investment Account.

(2) DEPOSIT OF BOND PROCEEDS.—The Corporation shall deposit the proceeds of sales of any bonds issued under section 54 of the Internal Revenue Code of 1986 into the Account.

(3) DEPOSIT OF NON-FEDERAL CONTRIBUTIONS.—The Board shall deposit all non-Federal contributions received into the Account.

(4) DISBURSEMENTS.—The Board may make available and may disburse, during the first fiscal year beginning after the date of enactment of this Act and during each succeeding fiscal year thereafter, such funds as may be available for obligation and expenditure from the Account.

(5) USE OF ACCOUNT FUNDS.—Funds in the Account—

(A) shall be used by the Corporation for investment purposes through the trust established under section 508 to generate an amount sufficient—

(i) to repay the principal of the bonds at their maturity; and

(ii) to pay the administrative costs of the Corporation and the Rail Infrastructure Finance Trust under section 508; and

(B) shall, to the extent of the net spendable proceeds in the account, be held in the Rail Infrastructure Finance Trust established under section 508 and be available for distribution as grants of financial assistance under title VI of this Act.

(6) NET SPENDABLE PROCEEDS DEFINED.—In this subsection, the term ''net spendable proceeds'', with respect to the Rail Infrastructure Investment Account, means the amount, determined by the Board of Trustees of the Rail Infrastructure Finance Trust, equal to the excess of—

(A) the total amount in such Account, over

(B) the amount in such Account that is needed for uses under paragraph (5)(A).

(d) RECORDS AND AUDIT.—

(1) IN GENERAL.—The account of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(2) AUDIT REPORT.—The report of each such independent audit shall be included in the annual report required by section 506. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(3) ACCOUNTING PRINCIPLES.—Not later than 1 year after the date of the enactment of this Act, the Corporation shall develop accounting principles which shall be used uniformly by all entities receiving funds under this Act, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for purposes of this Act by such entities.

(4) REQUIREMENTS FOR RECIPIENTS.—Each entity receiving funds under this Act shall—

(A) keep its books, records, and accounts in such form as may be required by the Corporation;

(B) either—

(i) undergo an annual audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation; or

(ii) submit a financial statement in lieu of the audit required by subparagraph (A) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and

(C) furnish biennially to the Corporation a copy of the audit report required pursuant to the subparagraph (B), as well as such other information regarding finances (including an annual financial report) as the Corporation may require.

(5) ADDITIONAL RECORDKEEPING.—Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, that total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the projects or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(6) ACCESS TO RECORDS.—The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records of any recipient of assistance for the purpose of auditing and, examining all funds received from the Corporation.

(7) PUBLIC INSPECTION.—The Corporation shall maintain the information described in paragraphs (4), (5), and (6) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be updated regularly.

SEC. 508. RAIL. INFRASTRUCTURE FINANCE TRUST.

(a) ESTABLISHMENT.—The Board of Directors of the Rail Infrastructure Finance Corporation shall establish the Rail Infrastructure Finance Trust (hereafter in this section referred to as the ''Trust'') as a trust domiciled in the State of Delaware before the issuance of bonds under section 505(b). The Trust shall, to the extent not inconsistent with this Act, be subject to the laws of the State of Delaware that are applicable to trusts. The Trust shall manage and invest the assets of the Rail Infrastructure Account described in section 507(c) that are transferred to it by the Board in the manner set forth in this section.

(b) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or other instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

(c) BOARD OF TRUSTEES.—

(1) ESTABLISHMENT.—The Trust shall have a Board of Trustees.

(2) COMPOSITION.—

(A) APPOINTMENT.—The Board of Trustees shall consist of 5 members (hereafter in this title referred to as ''Trustees'') 3 of whom shall be appointed by a unanimous vote of the Board of Directors of the Rail Infrastructure Finance Corporation.

(B) REPRESENTATION OF PARTICULAR INTERESTS.—The 3 members of the Board of Trustees shall be selected as follows:

(i) 1 from among persons who represent the interests of the States.

(ii) 1 from among persons who represent the interests of freight and passenger railroads.

(iii) 1 from among persons who represent the interests of holders of qualified rail infrastructure bonds issued by the Rail Infrastructure Corporation.

(C) The 2 Trustees not appointed under subparagraph (A) shall be elected directly by holders of qualified rail infrastructure bonds issued by the Rail Infrastructure Corporation through procedures established by the Board of Trustees to represent the interests of such bond holders. The election shall be held, and both members elected under this subparagraph shall take office as Trustees, within 1 year after the initial issuance of bonds under section 505(b).

(3) MEMBERS NOT UNITED STATES OFFICIALS.—The members of the Board of Trustees may not be considered officers or employees of the Government of the United States.

(4) QUALIFICATIONS.—The Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments. No member of the Board of Directors of the Rail Infrastructure Finance Corporation is eligible to be a Trustee.

(5) TERMS.—Each member of the Board of Trustees shall be appointed for a 3–year term. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the member whose departure caused the vacancy. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) POWERS.—The Board of Trustees shall—

(1) establish investment policies, including guidelines, and retain independent advisers to assist in the formulation and adoption of the investment guidelines;

(2) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

(3) invest assets in the Trust, pursuant to the policies adopted in paragraph (1);

(4) pay administrative expenses of the Trust from the assets in the Trust;

(5) transfer money to the Rail Infrastructure Investment Account, upon request of the Board of Directors of the Rail Infrastructure Finance Corporation, for bond repayment and administrative expenses; and

(6) develop a formula, subject to approval by the Board of Directors before the issuance of bonds under section 505(b), for determining when there is a sufficient trust income stream for purposes of paragraph (7); and

(7) transfer net spendable proceeds to the Board of Directors to be used for grants under title VI of this Act after determining that adequate trust funds are available, or that there is a trust income stream sufficient, to allow the Board of Trustees to meet its obligations under paragraphs (4) and (5).

(e) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

(1) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge the duties of the Trust and the duties of the Trustee, respectively (including the voting of proxies), with respect to the assets of the Trust solely in the interests of the Rail Infrastructure Finance Corporation and the programs funded under this title—

(A) for the exclusive purposes of—

(i) providing sufficient funds to repay qualified rail infrastructure bonds issued by the Rail Infrastructure Finance Corporation,

(ii) funding the administrative costs of the Rail Infrastructure Finance Corporation;

(iii) defraying reasonable expenses of administering the Trust; and

(iv) providing grants for rail capital projects under title VI of this Act; and

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the

circumstances it is clearly prudent not to do so; and

(D) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this title.

(2) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—A member of the Board of Trustees may not—

(A) deal with the assets of the Trust in the Trustee's own interest or for the Trustee's own account;

(B) act in an individual or in any other capacity, in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust and the Rail Infrastructure Finance Corporation; or

(C) receive any consideration for the Trustee's own personal account from any party dealing with the assets of the Trust.

(3) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a Trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void. Nothing in this paragraph shall be construed to preclude—

(A) the Trust from purchasing insurance for its Trustees or for itself to cover liability or losses occurring by reason of the act or omission of a Trustee, if such insurance permits recourse by the insurer against the Trustee in the case of a breach of a fiduciary obligation by such Trustee;

(B) a Trustee from purchasing insurance to cover liability under this section from and for his own account; or

(C) an employer or an employee organization from purchasing insurance to cover potential liability of 1 or more Trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

(4) TRUSTEES, BONDS.—

(A) REQUIREMENT.—Each Trustee and every person who handles funds or other property of the Trust (hereafter in this section referred to as ''Trust official'') shall be bonded. The bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others.

(B) AMOUNT.—The amount of a bond for a Trustee under this paragraph shall be fixed at the beginning of each fiscal year of the Trust by the Board of Directors of the Rail Infrastructure Finance Corporation. The amount may not be less than 10 percent of the amount of the funds administered by the Trust.

(C) UNLAWFUL CONDUCT.—It shall be unlawful for—

(i) any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection;

(ii) any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met; and

(iii) any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

(f) ADMINISTRATIVE MATTERS.—

(1) AUTHORITY.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisors (including the Rail Infrastructure Finance Corporation) to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this section. In the case of a contract for investment advisory services, compensation for such services may be provided on a fixed fee basis or on such other terms and conditions as are customary for such services.

(2) QUORUM AND PROCEEDINGS.—Three members of the Board of Trustees shall constitute a quorum for the Board to conduct business. Investment guidelines shall be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

(3) COMPENSATION OF TRUSTEES AND EMPLOYEES.—The salaries of the Trustees are subject to the limitations in section 502(h).

(4) COMPENSATION ARRANGEMENTS.—The Board of Trustees may compensate investment advisory service providers and employees of the Trust on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

(5) FUNDING.—The expenses of the Trust and the Board of Trustees that are incurred under this section shall be paid from the Trust.

(g) AUDIT AND REPORT.—

(1) REQUIREMENT FOR ANNUAL AUDIT.—The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

(2) ANNUAL MANAGEMENT REPORT.—The Trust shall submit an annual management report to be included in the annual report of the Corporation required under section 506. The management report under this paragraph shall include the following matters:

(A) A statement of financial position.

(B) A statement of operations.

(C) A statement of cash flows.

(D) A statement on internal accounting and administrative control systems.

(E) The report resulting from an audit of the financial statements of the Trust conducted under paragraph (1).

(F) Any other comments and information necessary to inform Congress about the operations and financial condition of the Trust.

(h) ENFORCEMENT.—The Rail Infrastructure Finance Corporation may commence a civil action—

(1) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this title; or

(2) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this title.

(i) EXEMPTION FROM TAX FOR RAIL INFRASTRUCTURE FINANCE TRUST.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(29) The Rail Infrastructure Finance Trust established under section 408 of the Arrive 21 Act.''Add to Title IV where appropriate:

TITLE VI—RAIL DEVELOPMENT GRANT PROGRAMS

SEC. 601. INTERCITY PASSENGER RAIL DEVELOPMENT GRANT PROGRAM.

(a) GRANTS TO STATES.—The Board of Directors of the Rail Infrastructure Finance Corporation may, by grant, provide financial assistance to a State, a group of States, or the National Railroad Passenger Corporation for, or in connection with, 1 or more intercity passenger rail capital projects that—

(1) in accordance with section 22504(a)(5) of title 49, United States Code, are listed in a State rail plan approved for such State under chapter 225 of such title; and

(2) as determined by the Board, would primarily benefit intercity passenger rail infrastructure or services or the development of passenger rail corridors (including high-speed rail corridors designated by the Secretary under section 104(d) of title 23, United States Code) and provide significant public benefits.

(b) PURPOSES ELIGIBLE FOR GRANT FUNDING.—The purposes for which grants may be made under subsection (a) for, or in connection with, an intercity passenger rail capital project described in that subsection are as follows:

(1) Planning, including activities described in section 26101(b)(1) of title 49, United States Code, and environmental impact studies.

(2) New rail line development, including right of way and infrastructure acquisition and construction of track and facilities.

(3) Track upgrades and restoration.

(4) Highway-rail grade crossing improvement or elimination.

(5) Track, infrastructure, and facility relocation.

(6) Acquisition, financing, or refinancing of locomotives and rolling stock.

(7) Intermodal and station facilities.

(8) Tunnel and bridge repair or replacement.

(9) Communications and signaling improvements.

(10) Environmental impact mitigation.

(11) Security improvements.

(12) Supplemental funding for direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.).

(13) Payment of credit risk premiums, to lower rates of interest, or to provide for a holiday on principal payments on loan or financing directly associated with rail capital projects described in paragraphs (1) through (11).

(c) PROJECT SELECTION CRITERIA.—The Board, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) require that each proposed project meet all safety requirements that are applicable to the project under law, and give a preference to any project determined by the Board as having provided for particularly high levels of safety;

(2) give preference to projects with high levels of estimated ridership, increased ontime performance, reduced trip time, additional service frequency, or other significant service enhancements as measured against minimum standards developed under section 415 of this Act;

(3) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(4) ensure a general balance across geographic regions of the United States in providing such assistance and avoid a concentration of a disproportionate amount of such financial assistance in a single project, State, or region of the country;

(5) encourage projects that also improve freight or commuter rail operations;

(6) ensure that each project is compatible with, and is operated in conformance with—

(A) plans developed pursuant to the requirements of sections 135 of title 23, United States Code;

(B) State rail plans under chapter 225 of title 49, United States Code; and

(C) the national rail plan (if it is available); and

(8) favor the following kinds of projects:

(A) Projects that are expected to have a significant favorable impact on air or highway traffic congestion, capacity, or safety.

(B) Projects that have significant environmental benefits.

(C) Projects that are—

(i) at a stage of preparation that all pre-commencement compliance with environmental protection requirements has already been completed; and

(ii) ready to be commenced.

(D) Projects with positive economic and employment impacts.

(E) Projects that encourage the use of positive train control technologies.

(F) Projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required for the project.

(G) Projects that involve donated property interests or services.

(H) Projects that enhance national security.

(d) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on an approved State rail plan's ranked list of priority freight and passenger rail capital projects developed under section 22504(a)(5) of title 49, United States Code, or may submit an independent application for a grant for any eligible project under this section. Any such independent grant request shall be subject to the same selection criteria as apply under subsection (b) to projects of States, except the criteria set forth in subsection (a) (1) and subparagraphs (A) and (B) of subsection (b)(12).

(e) LIMITATIONS.—

(1) 2-YEAR AVAILABILITY.—If any amount provided as a grant to a State or the National Railroad Passenger Corporation under this section is not obligated or expended for the purposes described in subsection (a) or (b) within 2 years after the date on which the State or Corporation received the grant, such sums shall be returned to the Board for other intercity passenger rail development projects under this section at the discretion of the Board.

(2) SINGLE PROJECT AMOUNT.—In awarding grants to States or the National Railroad Passenger Corporation for eligible projects under this section, the Board shall limit the amount of any grant made for a particular project in a fiscal year to not more than 30 percent of the total amount of the funds available for grants under this section for that fiscal year.

(3) AMTRAK.—The total amount of grants made under this section solely to the National Railroad Passenger Corporation in a fiscal year may not exceed 50 percent of the total amount available under this section for all grants in that fiscal year.

(f) FUNDING.—Amounts reserved for grants for a fiscal year under section 606(b)(1) shall be available for grants under this section.

(e) PUBLIC BENEFIT.—The term ''public benefit'' means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary.

SEC. 602. FREIGHT RAIL INFRASTRUCTURE DEVELOPMENT GRANT PROGRAM.

(a) GRANTS TO STATES.—The Board of Directors of the Rail Infrastructure Finance Corporation shall, by grant, provide financial assistance to a State or group of States—

(1) for, or in connection with, 1 or more freight rail capital projects that—

(A) in accordance with section 22504(a)(5) of title 49, United States Code, are listed in a State rail plan approved for such State under chapter 225 of such title; and

(B) as determined by the Board, would primarily benefit freight rail transportation infrastructure or services, but also would provide significant public benefits; or

(2) for the payment of staff expenses associated with the management of State rail programs and the development and updating of State rail plans under chapter 225 of title 49, United States Code.

(b) PURPOSES ELIGIBLE FOR GRANT FUNDING.—The purposes for which grants may be made under subsection (a)(1) for, or in connection with, a freight rail capital project are as follows:

(1) Planning, including activities described in section 26101(b)(1) of title 49, United States Code, and environmental impact studies.

(2) New rail line development, including infrastructure acquisition and construction of track and facilities.

(3) Track upgrades and restoration.

(4) Highway-rail grade crossing improvement or elimination.

(5) Track, infrastructure, and facility relocation.

(6) Intermodal facilities.

(7) Tunnel and bridge repair or replacement.

(8) Communications and signaling improvements.

(9) Environmental impact mitigation.

(10) Security improvements.

(11) Supplemental funding for direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) for projects described in the last sentence of section 502(d) of that Act (45 U.S.C. 822(d)).

(12) Payment of credit risk premiums, to lower rates of interest, or to provide for a holiday on principal payments on loan or financing directly associated with capital projects described paragraphs (1) through (9).

(c) STATE GRANT FUNDING FORMULA.—Of the total amount reserved for a grant program under section 606(b)(2) for a fiscal year, there shall be reserved for each State (to fund grants made to such State under this section) the amount determined for such State in accordance with a formula prescribed by the Board to weigh equally for each State—

(1) the number of rail miles in active use in the State;

(2) the number of rail cars loaded in the State;

(3) the number of rail cars unloaded in the State; and

(4) the number of railroad and public road grade crossings in the State.

(d) PERIOD OF AVAILABILITY FOR GRANTS.—

(1) THREE-YEAR RESERVATION.—The amount reserved for grant to a State under section (c) in a fiscal year shall be available for grant to such State in such fiscal year and the 2 successive fiscal years.

(2) CANCELLATION AT END OF PERIOD.—At the end of the third of the 3 successive fiscal years, the reservation of any part of the amount for a State that has not been awarded in a grant to such State shall be canceled, and the amount of the canceled reservation—

(A) shall be merged with the funds reserved for the grant program under section 606(b)(2) for the next fiscal year; and

(B) shall be reserved for each State in accordance with the formula provided under this section.

(e) TWO-YEAR AVAILABILITY.—If any amount provided as a grant to a State under this section is not obligated or expended for the purposes described in subsection (a) or (b) within 2 years after the date on which the State received the grant, such sums shall be returned to the Board for other freight rail capital projects under this section at the discretion of the Board.

SEC. 603. HIGH PRIORITY PROJECTS GRANT PROGRAM.

(a) GRANTS TO STATES.—The Board of Directors of the Rail Infrastructure Finance Corporation may, by grant, provide financial assistance to a State, a group of States, or the National Railroad Passenger Corporation for intercity passenger rail and freight rail infrastructure development projects that are designated as high priority projects under section 22505 of title 49, United States Code.

(b) PURPOSES.—The purposes for which a grant may be made under this section are—

(1) in the case of an intercity passenger rail corridor development project, the same purposes as are provided under section 601; and

(2) in the case of a freight rail infrastructure development project, the same purposes as are provided under section 602.

(c) PREFERRED PROJECTS.—In selecting the projects to receive financial assistance under this section, the Board shall give preference to a project that—

(1) provides for use of positive train control technologies;

(2) provides for particularly high levels of safety;

(3) increases intermodal connectivity by providing or improving direct connections between rail facilities and other modes of transportation;

(4) assists the Board—

(A) to achieve a general balance across geographic regions of the United States in the awarding of grants under this section; and

(B) to avoid a concentration of a disproportionate amount of such financial assistance in a single project, State, or region of the country;

(5) has a significant favorable impact on highway, aviation, or maritime capacity, congestion, or safety;

(6) improves the national intercity passenger rail system through higher levels of estimated ridership, reduced trip time, increased ontime performance, additional service frequency, or other significant service enhancements as measured against minimum standards developed under section 415 of this Act;

(7) has positive economic and employment impacts;

(8) has significant environmental benefits;

(9) is—

(A) at the stage of preparation that all pre-commencement compliance with environmental protection requirements has been completed; and

(B) ready to be commenced;

(10) has received financial commitments and other support from non-Federal entities such as States, local governments, and private entities;

(11) has commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required; and

(12) involves donated property interests or services.

(d) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may submit an independent application or may enter into a cooperative agreement with 1 or more States to carry out 1 or more high priority projects designated under section 22506 of title 49, United States Code. Any such independent grant request shall be subject to the same conditions as apply under this section to projects of States.

(e) LIMITATIONS.—

(1) TWO-YEAR AVAILABILITY.—If any amount provided as a grant to a State or the National Railroad Passenger Corporation under

this section is not obligated or expended for the purposes for which the grant is made within 2 years after the date on which the State or the National Railroad Passenger Corporation received the grant, such sums shall be returned to the Board for other high priority projects under this section at the discretion of the Board.

(2) SINGLE PROJECT AMOUNT.—In awarding grants to States for eligible projects under this section, the Board shall limit the amount of any grant made for a particular project in a fiscal year to not more than 30 percent of the total amount of the funds available for grants under this section for that fiscal year.

(f) FUNDING.—Amounts reserved for grants for a fiscal year under section 606(b)(3) shall be available for grants under this section.

SEC. 604. GRANT PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) AUTHORIZED USES.—The proceeds of a grant made for a project under this title may be used to defray the costs of the project or to reimburse the recipient for costs of the project paid by the recipient.

(b) NON-FEDERAL CONTRIBUTION.—The proceeds of a grant under this title may be released upon receipt by the Board of Directors of the Rail Infrastructure Finance Corporation of cash payment by a non-Federal Government source, or 1 or more such sources jointly, in an amount not less than the amount equal to 20 percent of the amount of the grant disbursed. The cash payment may not be derived, directly or indirectly, from Federal funds. Amounts received under this subsection shall be credited to the Rail Infrastructure Investment Account established under section 507(e).

(c) PREFERENCE INVOLVING DONATED PROPERTY INTERESTS AND SERVICES.—In selecting projects for grant funding under this title, the Board may give preference to projects that involve donated right-of-way, property, or in-kind services by a public sector or private sector entity. The value of a donation under this subsection may not be counted toward satisfaction of the requirement in subsection (b).

(d) FLEXIBILITY.—Notwithstanding any other provision of this title, amounts made available under section 506 may be combined and used for projects that significantly benefit either freight rail service, intercity passenger rail service, or both.

(e) SUBALLOCATION; PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this title.

(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Board.

(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

(f) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Board shall allocate an appropriate portion of the amounts available under section 601 or 602 to provide appropriate transportation-related assistance in any State in which the rail transportation system—

''(1) is not physically connected to rail systems in the continental United States; and

''(2) may not otherwise qualify for assistance under section 601 or 602 due to the constraints imposed on the railway infrastructure in that State due to the unique characteristics of the geography of that State or other relevant considerations, as determined by the Board.

(g) APPLICATIONS.—To seek a grant under this title, a State or, in the case of a grant under section 601 or 603, the National Railroad Passenger Corporation shall submit an application for the grant to the Board. The application shall be submitted at such time and contain such information as the Board requires.

(h) PROCEDURES FOR GRANT AWARD.—The Board shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the applicant and the Board. The Board shall issue a final rule establishing the procedures not later than 90 days after the date on which a sufficient number of the members of Board to constitute a quorum has taken office.

(i) DOMESTIC BUYING PREFERENCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—In carrying out a project funded in whole or in part with a grant under this title, the grant recipient shall purchase only—

(i) unmanufactured articles, material, and supplies mined or produced in the United States; or

(ii) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(B) DE MINIMIS AMOUNT.—Subparagraph (1) applies only to a purchase in an total amount that is not less than $1,000,000.

(2) EXEMPTIONS.—On application of a recipient, the Board may exempt a recipient from the requirements of this subsection if the Board decides that, for particular articles, material, or supplies—

(A) such requirements are inconsistent with the public interest;

(B) the cost of imposing the requirements is unreasonable; or

(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

(3) UNITED STATES DEFINED.—In this subsection, the term ''the United States'' means the States, territories, and possessions of the United States and the District of Columbia.

SEC. 605. STANDARDS AND CONDITIONS.

(a) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that con ducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title

(1) shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) shall be considered a carrier for purposes of the Railway Labor Act (43 U.S.C. 151 et seq.).

(b) GRANT CONDITIONS.—The Board of Directors of the Rail Infrastructure Finance Corporation shall require as a condition of making any grant under this title that includes the improvement or use of rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and owner ship, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; and

(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

(2) the applicant agrees to comply with—

(A) the standards of section 24312 of title 49, United States Code, as such section was in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of that title; and

(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by the Rail Infrastructure Finance Corporation.

(c) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this title and replaces intercity rail passenger service that was provided by another entity as of such date shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(2) IMMEDIATE REPLACEMENT SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters

set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(d) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.—Nothing in this section applies to—

(1) commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of that title) eligible to receive financial assistance under section 5307 of that title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined); or

(2) the Alaska Railroad or its contractors.

(3) The National Railroad Passenger Corporation's access rights to railroad rights of way and facilities under current law for projects funded under this title where train operating speeds do not exceed 79 miles per hour.

SEC. 606. GRANT PROGRAM FUNDING.

(a) ANNUAL RESERVATION OF FUNDS.—Each fiscal year, the Board of directors of the Rail Infrastructure Finance Corporation Board shall reserve for grants under each of the grant programs authorized under sections 501, 502, and 503 the amount determined by multiplying the percent applicable to the program under subsection (b) times the amount of the net spendable proceeds (as defined under section 507(c)(7)) that is available for such fiscal year.

(b) APPLICABLE PERCENT.—The percent applicable to a grant program under subsection (a) is as follows:

(1) INTERCITY PASSENGER RAIL DEVELOPMENT GRANT PROGRAM.—For the intercity passenger rail development grant program under section 601, 40 percent.

(2) FREIGHT INFRASTRUCTURE DEVELOPMENT GRANT PROGRAM.—For the freight infrastructure development grant program under section 602, 40 percent.

(4) HIGH PRIORITY PROJECTS GRANT PROGRAM.—For the high priority projects grant program under section 603, 20 percent.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 for fiscal year 2004 for the establishment and payment of initial administrative costs of the Rail Infrastructure Finance Corporation, including the Rail Infrastructure Finance Trust.

Mr. CARPER. Mr. President, I rise today to join Senators HOLLINGS, COLLINS, SPECTER, JEFFORDS and LAUTENBERG in introducing ''ARRIVE 21,'' the American Railroad Revitalization, Investment, and Enhancement Act of the 21st Century. ARRIVE 21 is a comprehensive proposal that creates a new public/private partnership to fund rail infrastructure development, reauthorizes and improves Amtrak, and enhances Federal and State rail policy and planning efforts.

As our Nation faces a mobility crisis of staggering proportions, with freight movements expected to double and our highways and airways already overburdened with congestion, ARRIVE 21 will give our States a new and powerful tool to unlock the potential of intercity passenger rail, bringing high-speed rail to viable corridors across the country while providing capital funding for freight rail projects that deliver public benefits. Today's passenger and freight railroads are already essential components of our surface transportation system and I believe that greater use of rail offers one of the best opportunities to augment the capacity of our existing transportation network, while benefiting the environment and reducing our dependency on foreign oil.

Historically, railroads have been built, maintained and operated outside of the publicly funded programs that finance our other transportation modes, relying almost exclusively on the private sector to fund their infrastructure. However, today's railroads face restricted access to capital and capacity constraints that limit service quality and expansion, all the while facing ever-growing modal competition financed by federally funded trust funds. If rail is to remain viable or increase its share of the intercity passenger and freight markets—necessary developments if we are to reach other transportation and public policy goals including highway infrastructure preservation, highway and air congestion relief, energy efficiency, environmental stewardship and smart growth development—then the pubic sector, through arm's length voluntary partnerships with private railroads, must play a more active role in financing the development of freight and passenger rail infrastructure, as it has with all other modes.

Today, America's freight railroads carry 16 percent of the nation's freight by tonnage and intercity passenger rail carriers roughly 23 million passenger annually. But, the ability of our passenger and freight rail systems to generate the sufficient investment capital needed to maintain this market share, or expand it to handle the expected increases in passenger and freight traffic over the next 20 years, is limited or in jeopardy. According to the America Association of State Highway and Transportation Officials' (ASSHTO) ''Freight Rail Bottom Line Report,'' the nation's freight railroads will need an additional $2.65 billion of public sector annual capital investment over the next 20 years above and beyond what they can finance themselves just to maintain their current share of the freight tonnage.

Without this additional investment, freight traffic is likely to shift from rail to our highways, resulting in an additional 450 million tons of freight and 15 billion truck VMT (Vehicle Miles Traveled) on our roads and $162 billion in increased shipper costs, $238 billion in increased highway user costs, and approximately $20 billion in direct additional highway infrastructure costs. Alternatively, ASSHTO has concluded that with a public investment of $4 billion annually in freight rail infrastructure over the next 20 years, freight rail's tonnage share would increase 1 percentage point to 17 percent. This shift would thereby relieve our highways of an estimated 600 million tons of freight traffic and 25 billion VMT, while saving shippers $239 billion and highways users $397 billion, and reducing direct highway infrastructure costs by $17 billion.

For intercity passenger rail, ASSHTO similarly concludes that roughly $3 billion in annual public sector investment over the next 20 years is needed to expand intercity passenger rail services and advance the many viable high speed rail corridors that could reduce highway and aviation congestion. The Texas Transportation Institute's ''2003 Urban Mobility Report,'' which looks at transportation mobility in 75 cities of varying sizes, concludes that the average annual transportation delay time per person climbed from ''16 hours in 1982 to 60 hours in 2001'' due to the congestion of our surface system.

High-quality and high-speed intercity passenger service, especially in intercity corridors of 500 miles or less where rail can offer competitive trip times, offers a tremendous opportunity to relieve such congestion by shifting travelers who current drive and fly onto trains. Today, roughly 80 percent off all trips of more than 100 miles are less than 500 miles in length. Successful rail corridors in California, the Pacific Northwest, and in the Northeast have shown that rail can be viable option for travelers in such markets, capturing significant market share and in same cases becoming the dominate mode when frequent and high-quality service

is offered. Where intercity passenger rail is successful, congestion in our airports and on our highways is reduced, smart development is induced, jobs are created and citizens' safety and quality of life are improved.

Theses facts lead to the obvious conclusion that leveraging modest public investment in our rail system will reap benefits to our entire surface transportation system and to our Nation as a whole. In my State of Delaware, we have clearly seen the value that high-quality passenger and freight rail service brings and we have made significant investments to upgrade both Amtrak facilities and infrastructure and enhance freight capacity for the railroads that serve Delaware industries. But despite of all the good reasons to invest in our railroad infrastructure, Delaware and other States are limited in what they can do on there own without the benefit of the financing partnership that our Federal Government provides the State for all other transportation investments. ARRIVE 21 is designed to change that.

ARRIVE 21 will empower our States to make rational investments in our rail system when such investments provide significant pubic benefits. Through the creation of the Rail Infrastructure Finance Corporation (RIFCO) a non-profit, non-Federal, congressionally-chartered corporation that can issue $30 billion in tax-credit bonds over 6 years, States will have a new partner to assist them in undertaking rail capital projects. RIFCO will award, using a portion of the proceeds from the bond issuance, discretionary capital matching grants to States and Amtrak for high-speed rail and intercity passenger rail projects and State formula matching grants for freight capital projects. Prior to issuing grants, a portion of the bond proceeds will be deposited in a secure and continually monitored repayment fund managed by the RIFCO investment trust to retire the debt over the life of the bonds.

Passenger and freight rail projects eligible for funding through RIFCO include planning and environmental review, rail line rehabilitation, upgrades and development, safety and security projects, passenger equipment acquisition, station improvements, and intermodal facilities development. In order to receive grants, States must prepare a State rail plan and provide a 20 percent non-Federal match to RIFCO, thereby replicating the cost sharing relationship our States currently have for investments in other modes.

ARRIVE 21 will promote jobs and economic growth through the rehabilitation and expansion of rail infrastructure, the manufacture and procurement of new rail equipment and the enhancement of mobility and development in and around or cities and towns. Our bill provides a total $42 billion investment in U.S. rail infrastructure and service to expand high-speed passenger rail in congested corridors, strengthen Amtrak, and improve freight mobility. Such investment will revitalize the U.S. rail supply industry and create thousands of jobs. According to U.S. Transportation Secretary Mineta, every $1 billion invested in transportation infrastructure creates roughly 47,500 jobs. That means ARRIVE 21 stands to create roughly 2 million jobs, if enacted.

ARRIVE 21 reauthorizes and reforms Amtrak. Designed to improve upon Amtrak's current congressional and State funding processes, our bill authorizes approximately $1.5 billion annually for 6 years to Amtrak for the basic capital and operating needs required to run and maintain the current system. In addition to these funds, the States and Amtrak can pursue major capital improvements and equipment acquisition through RIFCO, with reductions in Amtrak's capital authorizations for projects funded through RIFCO capital grants. Through this process, the amount needed for annual Amtrak appropriation for capital will be reduced over the life of the reauthorization, as RIFCO begins to finance a growing share of Amtrak's capital needs. As is the case today, operating costs on long distance trains will be covered by Amtrak's annual appropriation, while States will share the costs with Amtrak for operations of short distance corridors.

For such shot distance corridors, ARRIVE 21 infuse fairness into the current system by requiring parity between Amtrak and all States for cost sharing, putting an end to disparate treatment among the States that contract with Amtrak to provide corridor service. Furthermore, it authorizes a study of new methodologies to determine Amtrak routes and services while defining the national passenger rail system based on existing service and high-speed rail corridors. ARRIVE 21 also requires a whole host of new reforms including accounting transparency measures, the establishment of a quarterly grant process for Amtrak through the U.S. Department of Transportation to ensure accountability, and the creation of new service metrics that will improve the monitoring and quantification of Amtrak service performance and quality.

ARRIVE 21 helps to coordinate rail-planning efforts across the U.S. at the national and State level and increases the Federal Railroad Administration's advocacy role in promoting a safe, secure, efficient, environmentally sound rail transportation system nationwide. The bill directs the Federal Government to develop a national rail plan in coordination with State rail plans and creates a rail cooperative research program through the National Academies of Sciences. It also authorizes additional funds for planning of high-speed rail projects through the U.S. Secretary of Transportation and addresses rail safety needs by authorizing funding for emergency passenger safety improvement projects. In light of the security risks facing our railroads, ARRIVE 21 authorizes $515 million in 2004 for rail security threat assessments and grants through the Department of Homeland Security.

In total, ARRIVE 21 provides the needed funding for the more than $5 billion annual shortfall in U.S. rail infrastructure investment cited by AASHTO Bottom Line Report without involving the Highway Trust Fund or sapping funds away from other important transportation priorities. This bill will provide our States and the Nation with a fiscally responsible and innovative opportunity to enhance our entire transportation system. We owe it to the American people to support this bill and move towards the type of high-quality, high-speed intercity passenger rail service that Americans desire and deserve, while meeting the ever-growing demands that trade and our economy are placing on our freight system. I ask my colleagues to join me in supporting ARRIVE 21.

Mr. JEFFORDS. Mr. President, I have frequently reiterated my conviction that investment in transportation is a means to an end. Our national transportation policy must be designed to serve the public good. In my view, the outcomes we seek are a strong economy, safe and healthy communities, and a clean environment. A balanced transportation system, including a strong freight and passenger rail system, is necessary for us to attain these goals.

As ranking member of the Committee on Environment and Public Works, I have been highly involved in the Senate's effort to reauthorize the nation's surface transportation program. Over the past two years, I have traveled around the country, visiting local examples of national transportation challenges. I have heard critiques and suggestions from dozens of transportation officials, users, and advocates.

In order to best serve the needs of this country, we must redouble our investment in an efficient, intermodal transportation system. I have often expressed my view that the success of our surface transportation program rests on four fundamental 'pillars':

First, asset management. We must maintain and preserve existing infrastructure. Second, we must enhance access and mobility, particularly for Americans living in our most congested urban areas.

The third pillar is freight and trade. We need new and improved facilities to accommodate the quantity of goods moving through our system.

Fourth, I believe that rail is the final component of a successful surface transportation system. We are not currently meeting the nation's freight and passenger rail needs. We must invest in a modern national rail system, comparable to our highway and aviation systems. The bill that we are introducing today will help us achieve that goal.

The American Railroad Revitalization, Investment, and Enhancement

Act of the 21st Century (ARRIVE 21) strives to provide sustainable, meaningful, and continuous funding opportunities for states that want to improve and expand their rail systems. Currently, the federal government provides few funding sources to assist states in their efforts to maintain and improve freight and passenger rail service. This bill creates a nonprofit, public-private partnership—the Rail Infrastructure Finance Corporation (RIFCO)—with the authority to issue $30 billion in tax-credit bonds over six years. With the resulting revenue, RIFCO will award capital grants to states and to Amtrak.

My State of Vermont has long displayed a commitment to maintaining an effective and efficient freight and passenger rail system. This legislation would provide Vermont a significant new source of revenue to fund capital projects such as rail line rehabilitation, safety and security projects, and development of intermodal facilities. In fact, grants awarded by RIFCO could be used to reimburse States for the capital investments they've already made, a provision that is particularly helpful to States, like Vermont, that have invested State money into eligible projects.

For Amtrak, this legislation introduces financial and policy commitments to dramatically improve passenger rail service in this country. We envision a future that includes a healthy and efficient passenger rail system and provide the resources to move Amtrak in that direction.

ARRIVE 21 authorizes approximately $1.5 billion per year, for six years, for capital and operating expenses. We have under-funded Amtrak for too long. This funding level will provide Amtrak the resources it needs to address urgent infrastructure needs and system-wide service improvements.

Amtrak will also benefit from provisions in this bill that encourage long-term sustainability and enhanced operations. ARRIVE 21 requires improved accounting procedures and oversight. Additionally, states that currently share responsibility with Amtrak for supporting services through or within their states will see changes to equalize their cost burden. This bill requires that Amtrak, in collaboration with the Department of Transportation, adopt fair and uniform standards for cost sharing on short-distance services that states contract with Amtrak to provide.

ARRIVE 21 also directs an independent study to research Amtrak's current and past procedures for determining intercity passenger rail routes and services. The study will recommend changes to that process to improve the efficiency, accessibility, and effectiveness of our national rail service.

I have long been a strong advocate for rail. I firmly believe that nationwide investment in freight and passenger rail infrastructure will invite rewards in the form of reduced congestion, improved environmental quality, and improved mobility options for our nation's travelers. ARRIVE 21 encourages States, and the Federal Government, to more fully integrate freight and passenger rail into the surface transportation system. Improved rail planning policy, at both the Federal and State levels, will enhance the efficiency and longevity of our transportation system and will promote safe, efficient, and environmentally sound transportation options.

Mr. LAUTENBERG. Mr. President, I am proud to be a cosponsor of ARRIVE–21. I believe rail is a vital component of our national transportation system, and investment in our Nation's rail infrastructure is necessary for our economy, our security, and the effective and safe movement of people and goods in our country.

The importance of rail service became apparent in the Northeast long ago, as we dealt with the myriad transportation planning and congestion issues that many other States are now just facing. These States are joining us Northeasterners in looking to the Federal Government to provide the leadership needed to ensure that passenger rail is given the priority it deserves.

It took Federal money, not just gasoline taxes, to build the Dwight D. Eisenhower Interstate Highway System. It took Federal money to build our national aviation system.

Here in the Northeast, the first part of the country to become densely populated, we faced congestion problems long ago, and passenger rail service became a mainstay. In the Northeast, we rely heavily on Amtrak's high-speed service between Boston and Washington, D.C. The Northeast Corridor serves cities with four of the Nation's seven most congested airports: Logan, LaGuardia, Newark, and Reagan National. Amtrak carries more passengers between New York and Washington than all of the airlines combined and, unlike airline passengers, rail travelers are able to stop in Trenton and Newark, New Jersey, and in other places along the way.

Next month, New Jersey Transit will open for service a new rail station in Secaucus, NJ. As a result of this opening, more than 15,000 cars will be diverted from our roads each day by 2010. That will reduce carbon monoxide emissions by nearly 277,000 pounds each year. New Jersey riders who switch to rail because of this one station will cut their gasoline consumption by 1.3 million gallons each year.

Also, in this post-9–11 environment we have a new perspective about the national security interest in ensuring that there is more than one way to get from here to there, and this includes passenger rail. September 11 underscored just how important passenger rail is to America's economy and security.

New Jersey's economy is so dependent on passenger rail and mass transit as a result of being the most densely populated State in the Nation. New Jersey needs federal assistance for passenger rail infrastructure. But New Jersey is not alone. As metropolitan areas across the country continue to swell with people, our roads and airports become more and more congested. I think the prudence of increasing our investment in another way to move people—passenger rail—has become more and more obvious. And ARRIVE–21 provides this investment opportunity.

The benefits of rail service are not limited to urban areas. In rural towns across America, passenger trains may be the only option for intercity travel for many people.

From 1987 through 2000, I was the Chairman or Ranking Member of the Senate Appropriations Subcommittee on Transportation. During that time, I helped to secure 10.3 billion dollars in operating funds for AMTRAK and an additional 2.2 billion dollars in tax-advantaged financing for capital improvements. Unfortunately, during that time, we have not been able to make the capital investments necessary to bring Amtrak's infrastructure up to a state of good repair.

ARRIVE–21 gives the Federal Government the impetus to step up and take charge with a strong program to invest in our rail infrastructure. The States are interested, the traveling public is interested. This kind of investment will lay the tracks for the future of all Americans to have travel options, provide a national security role, and support our economy.

For these reasons, I am proud to cosponsor ARRIVE–21.

By Mr. SPECTER (for himself and Mrs. BOXER):

S. 1963. A bill to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I rise today to introduce the Wireless Consumer Privacy Protection Act.

As every Senator is aware, consumers today rely on their wireless telephones as a vital and important means of communication. Wireless telephones enable families to stay connected, permit commerce to be conducted anywhere at any time, and provide a vital link in the event of an emergency. Some people have even abandoned traditional telephones and now use their wireless phones as their primary phone service. In fact, just this month, the Federal Communications Commission began requiring number portability for wireless phones so that consumers, if they wish, can make their wireless phone their only phone.

The wireless industry is on the verge of introducing a ''wireless white pages'' service, and though this step could have positive benefits, it raises concerns about how consumers' expectation of privacy will be protected. The

legislation I am introducing today along with Senator BOXER ensures that consumers expectations will be preserved.

An important reason that Americans increasingly trust their cell phone service is that they have a great deal of privacy on their cell phone numbers. For more than 20 years of cellular service, consumers have become accustomed to not having their wireless phone numbers available to the public. The protection of wireless telephone number is important. For example, wireless customers are typically charged for incoming calls. Without protections for wireless numbers, subscribers could incur large bills, or use up their allotted minutes of use, simply by receiving calls they do not want—from telemarketers and others. Because consumers often take their cell phones with them everywhere, repeated unwanted calls are particularly disruptive, and may even present safety concerns for those behind the wheel.

It may surprise my colleagues that today, no federal or state law or regulation prohibits a carrier from divulging your wireless telephone number. And with the industry poised to introduce wireless director assistance services, it is important for Congress to act now to preserve the expectation of privacy that consumers have in their wireless phone numbers. Because wireless directory assistance offer great benefits as well as posing significant privacy concerns, the legislation I am introducing today strikes an important balance. It enables those consumers who want to be reached to be accessible, while providing privacy protections that are important to consumers.

First, this legislation permits wireless subscribers to choose not to be listed in wireless directory assistance databases. This feature gives consumers the ultimate ability to keep their numbers entirely private. Second, for those in the directory assistance database, the bill requires wireless providers to use systems that give users privacy protections and control over the use of their wireless numbers. These services must not divulge a subscriber's wireless number (unless the subscriber consents to disclosure), the service must provide identifying information to the wireless subscriber so that the subscriber knows who is calling through the forwarding service, and the service must give a subscriber the option of rejecting or accepting each incoming call. Finally, this legislation prohibits wireless carriers from charging any special fees to consumers who wish to receive the privacy protections provided by the bill. Customers should not have to pay extra for the privacy protections that they have come to expect. There should be no ''privacy tax'' for consumers to continue the privacy protection they have long enjoyed, and this bill ensures that will be the case.

I urge my colleagues to join me in supporting this important legislation.

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

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

S. 1963

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 ''Wireless 411 Privacy Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are roughly 150 million wireless subscribers in the United States, up from approximately 15 million subscribers just a decade ago;

(2) wireless phone service has proven valuable to millions of Americans because of its mobility, and the fact that government policies have expanded opportunities for new carriers to enter the market, offering more choices and ever lower prices for consumers;

(3) in addition to the benefits of competition and mobility, subscribers also benefit from the fact that wireless phone numbers have not been publicly available;

(4) up until now, the privacy of wireless subscribers has been safeguarded and thus vastly diminished the likelihood of subscribers receiving unwanted or annoying phone call interruptions on their wireless phones;

(5) moreover, because their wireless contact information, such as their phone number, have never been publicly available in any published directory or from any directory assistance service, subscribers have come to expect that if their phone rings it's likely to be a call from someone to whom they have personally given their number;

(6) the wireless industry is poised to begin implementing a directory assistance service so that callers can reach wireless subscribers, including subscribers who have not given such callers their wireless phone number;

(7) while some wireless subscribers may find such directory assistance service useful, current subscribers deserve the right to choose whether they want to participate in such a directory;

(8) because wireless users are typically charged for incoming calls, consumers must be afforded the ability to maintain the maximum amount of control over how many calls they may expect to receive and, in particular, control over the disclosure of their wireless phone number;

(9) current wireless subscribers who elect to participate, or new wireless subscribers who decline to be listed, in any new wireless directory assistance service directory, including those subscribers who also elect not to receive forwarded calls from any wireless directory assistance service, should not be charged for exercising such rights;

(10) the marketplace has not yet adequately explained an effective plan to protect consumer privacy rights;

(11) Congress previously acted to protect the wireless location information of subscribers by enacting prohibitions on the disclosure of such sensitive in formation without the express prior authorization of the subscriber; and

(12) the public interest would be served by similarly enacting effective and industry-wide privacy protections for consumers with respect to wireless directory assistance service.

SEC. 3. CONSUMER CONTROL OF WIRELESS PHONE NUMBERS.

Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end the following:

''(9) WIRELESS CONSUMER PRIVACY PROTECTION.—

''(A) CURRENT SUBSCRIBERS.—A provider of commercial mobile services, or any direct or indirect affiliate or agent of such a provider, may not include the wireless telephone number information of any current subscriber in any wireless directory assistance service database unless—

''(i) the mobile service provider provides a conspicuous, separate notice to the subscriber informing the subscriber of the right not to be listed in any wireless directory assistance service; and

''(ii) the mobile service provider obtains express prior authorization for listing from such subscriber, separate from any authorization obtained to provide such subscriber with commercial mobile service, or any calling plan or service associated with such commercial mobile service, and such authorization has not been subsequently withdrawn.

''(B) NEW SUBSCRIBERS.—A provider of commercial mobile services, or any direct or indirect affiliate or agent of such a provider, may include the wireless telephone number information of any new subscriber in a wireless directory assistance service database only if the commercial mobile service provider—

''(i) provides a conspicuous, separate notice to the subscriber, at the time of entering into an agreement to provide commercial mobile service, and at least once each year thereafter, informing the subscriber of the right not to be listed in any wireless directory assistance service database; and

''(ii) provides the subscriber with convenient mechanisms by which the subscriber may decline or refuse to participate in such database, including mechanisms at the time of entering into an agreement to provide commercial mobile service, in the billing of such service, and when receiving any connected call from a wireless directory assistance service.

''(C) CALL FORWARDING.—A provider of commercial mobile services, or any direct or indirect affiliate or agent of such provider, may connect a calling party from a wireless directory assistance service to a commercial mobile service subscriber only if—

''(i) such subscriber is provided prior notice of the calling party's identity and is permitted to accept or reject the incoming call on a per-call basis;

''(ii) such subscriber's wireless telephone number information is not disclosed to the calling party; and

''(iii) such subscriber is not an unlisted commercial mobile service subscriber.

''(D) PUBLICATION OF DIRECTORIES PROHIBITED.—A provider of commercial mobile services, or any direct or indirect affiliate or agent of such a provider, may not publish, in printed, electronic, or other form, the contents of any wireless directory assistance service database, or any portion or segment thereof.

''(E) NO CONSUMER FEE FOR RETAINING PRIVACY.—A provider of commercial mobile services may not charge any subscriber for exercising any of the rights under this paragraph.

''(F) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'current subscriber' means any subscriber to commercial mobile service as of the date when a wireless directory assistance service is implemented by a provider of commercial mobile service;

''(ii) the term 'new subscriber' means any subscriber to commercial mobile service who becomes a subscriber after the date when a wireless directory assistance service is implemented by a provider of commercial mobile service, and includes any subscriber of a different provider of commercial mobile

service who subsequently switches to a new provider of commercial mobile service;

''(iii) the term 'wireless telephone number information' means the telephone number, electronic address, and any other identifying information by which a calling party may reach a subscriber to commercial mobile services, and which is assigned by a commercial mobile service provider to such subscriber, and includes such subscriber's name and address;

''(iv) the term 'wireless directory assistance service' means any service for connecting calling parties to a subscriber of commercial mobile service when such calling parties themselves do not possess such subscriber's wireless telephone number information; and

''(v) the term 'calling party's identity' means the telephone number of the calling party or the name of subscriber to such telephone, or an oral or text message which provides sufficient information to enable a commercial mobile services subscriber to determine who is calling;

''(vi) the term 'unlisted commercial mobile services subscriber' means—

''(I) a current subscriber to commercial mobile services who has not provided express prior consent to a commercial mobile service provider to be included in a wireless directory assistance service database; and

''(II) a new subscriber to commercial mobile service who has exercised the right contained in subparagraph (B)(ii) to decline or refuse to such inclusion.''.

Mrs. BOXER. Mr. President, I am pleased to join Senator SPECTER in introducing the Wireless 411 Privacy Act of 2003.

About 150 million Americans subscribe to wireless telephone service. They rely on wireless service to stay in touch with friends, family, and the workplace. As a cellular phone user myself, I value the privacy of my wireless number. I want to have control over who can reach me on my cell phone.

However, the wireless phone industry is planning to list customers in a wireless phone directory starting sometime next year. The Specter-Boxer bill would protect consumers by providing them with the right not to have their cell phone number listed in the directory and the right not to be charged a fee for being unlisted.

As we saw with the strong consumer support for the right to keep a cell phone when you switch carriers, consumers consider their cell phone number their property. It is not the property of the carrier to hand out to whomever the carrier wishes, and the carrier should not be allowed to charge consumers for the right to keep that number private.

This is especially important when you consider that wireless users pay for both their incoming and outgoing calls. Having your number listed could easily lead to receiving calls that you did not want but for which you will have to pay. That seems wrong to me.

To date, the wireless phone industry has been unclear on how they will address these valid concerns when they move forward with their directory plans next year. To avoid any confusion or uncertainty, Congress must make clear to the cell phone companies that the rights of consumers to keep their cell phone numbers private is paramount.

By Ms. STABENOW (for herself and Mr. GRAHAM of South Carolina):

S. 1964. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce the Manufacturing Opportunities to Revitalize our Economy's JOBS Act, or the MORE JOBS Act. We are facing a manufacturing job crisis in this country, and that is why I am introducing this bill to help our U.S. manufacturers to create manufacturing jobs here at home.

Since January of 2001, the State of Michigan has faced devastating losses in the manufacturing sector. While the U.S. has lost 3.3 million private sector jobs—2.5 million in the manufacturing sector, Michigan has lost 162,300 manufacturing jobs. That is 18 percent of the state's manufacturing employment. In other words, 1 in 6 Michiganians has lost their manufacturing job in the last 2 years.

It is an unfortunate fact that Michigan is one of the leading states in the country in manufacturing job loss. Indeed, while the U.S. employment rate is around 6 percent, Michigan's unemployment rate is currently around 7.6 percent. In some parts of Michigan, the unemployment rate is as high as 12 percent.

The people of Michigan and the people of the United States need relief to help revitalize our economy. In the midst of these troubling times, we are faced with a new challenge: complying with a World Trade Organization (WTO) decision finding that our Foreign Sales Corporation (FSC) and Extraterritorial Income (ETI) tax code must be reformed to meet international trade law requirements. I understand that our colleagues on the Senate Finance Committee have been and continue to work diligently on this issue. Our country is one that plays by the rules and we will ultimately fix our tax code.

The tax benefits of the FSC and ETI, however, are valued at nearly $50 billion over 10 years. We cannot just take away these benefits to our American manufacturers without creating new tax relief for them. The practical effect of that would be a $50 billion tax increase. And, that is why we must create a new tax credit for our U.S. manufacturers.

The MORE JOBS Act that I am introducing today lays out a vision on how I believe we should reform the code. First of all it, it phases out the noncompliant FSC/ETI tax code over the next three years.

Then, to help our U.S. manufacturers, the bill creates a Manufacturers' Tax Credit for domestic companies. A company, under my proposal, would be allowed to deduct 9 percent of its domestic production income before it has to figure its tax liability. In effect, this would result in a new tax rate for our U.S. manufacturers that are 3 percent lower—32 percent instead of 35 percent. And, my bill would make this effective immediately, not phased in as others have suggested.

The credit would be extended to a wide array of companies: small businesses, large businesses and agricultural cooperatives. So whether it is a small furniture manufacturer in western Michigan, a tool and die company in Grand Rapids, or one of our automakers in metro Detroit, companies will be rewarded for their domestic production. And, our farmers will benefit, too.

I often say that we in Michigan pride ourselves on what we make and what we grow. These two activities are vital to a strong economy, and our farmers would also benefit under my bill.

Farmers themselves, if they have at least one employee, will directly benefit under my bill, since they qualify for the tax benefit as manufacturers. In addition, agricultural cooperatives would also receive this tax benefit. Farmers often belong to an agricultural cooperative which is covered under my bill. Agricultural cooperatives do the processing, handling, storing, and marketing for their members. For example, a farmer will sell his specialty crop to the cooperative. The cooperative then takes the farmer's crop and puts it with other farmers' produce and then stores and prepares the produce for sale to a food processing company. The coop passes its profits on to the members of the cooperative based on the amount of business each member does with the cooperative. So the tax benefits for the cooperative can be passed-through to farmer members of the coop.

Finally, one of the cornerstones of my legislation is that my bill would create incentives for companies to keep jobs in the U.S. and to bring more jobs to our country. The MORE JOBS Act would encourage companies to keep their manufacturing in the U.S. by basing the amount of their tax credit on how much of their manufacturing is done in the U.S. Companies that have all of their manufacturing in the U.S. would receive the full 3 percent tax credit. Companies that have much their manufacturing outside of the U.S. would receive a reduced credit in proportion to their U.S. manufacturing. While other proposals being circulated eventually eliminate this incentive, my bill would make this incentive permanent.

Why would we want to reward companies if they send their jobs overseas? We want to reward those who are contributing to our economy and putting Americans to work here at home.

I want to work closely with my colleagues to reform our manufacturing

tax code. In doing so, we will make our country stronger, our economy more resilient, and we can create millions of new good jobs in the manufacturing and agricultural sector. But we must do it carefully and with a priority on our U.S. manufacturing base. I urge my colleagues to support the MORE JOBS Act.

By Mr. BAYH:

S. 1965. A bill to provide for the creation of private-sector-led Community Workforce Partnerships, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BAYH. 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. 1965

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 ''Community Workforce Development and Modernization Partnership Act''.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—From amounts made available to carry out this Act, the Secretary of Labor (referred to in this Act as the ''Secretary''), in consultation with the Secretary of Commerce and the Secretary of Education, shall award grants on a competitive basis to eligible entities described in subsection (b) to assist each entity to—

(1) help workers improve those job skills that are necessary for employment by businesses in the industry with respect to which the entity was established;

(2) help dislocated workers find employment; and

(3) upgrade the operating and competitive capacities of businesses that are members of the entity.

(b) ELIGIBLE ENTITIES.—An eligible entity described in this subsection is a consortium (either established prior to the date of enactment of this Act or established specifically to carry out programs under this Act) that—

(1) shall include—

(A) 2 or more businesses (or nonprofit organizations representing businesses) that are facing similar workforce development or business modernization challenges;

(B) labor organizations, if the businesses described in subparagraph (A) employ workers who are covered by collective bargaining agreements; and

(C) 1 or more businesses (or nonprofit organizations that represent businesses) with resources or expertise that can be brought to bear on the workforce development and business modernization challenges referred to in subparagraph (A); and

(2) may include—

(A) State governments and units of local government;

(B) educational institutions;

(C) labor organizations; or

(D) nonprofit organizations.

(c) COMMON GEOGRAPHIC REGION.—To the maximum extent practicable, the organizations that are members of an eligible entity described in subsection (b) shall be located within a single geographic region of the United States.

(d) PRIORITY CONSIDERATION.—In awarding grants under subsection (a), the Secretary shall give priority consideration to—

(1) eligible entities that serve dislocated workers or workers who are threatened with becoming totally or partially separated from employment;

(2) eligible entities that include businesses with fewer than 250 employees; or

(3) eligible entities from a geographic region in the United States that has been adversely impacted by the movement of manufacturing operations or businesses to other regions or countries, due to corporate restructuring, technological advances, Federal law, international trade, or another factor, as determined by the Secretary.

SEC. 3. PARTNERSHIP ACTIVITIES.

(a) USE OF GRANT AMOUNTS.—Each eligible entity that receives a grant under section 2 shall use the amount made available through the grant to carry out a program that provides—

(1) workforce development activities to improve the job skills of individuals who have, are seeking, or have been dislocated from, employment with a business that is a member of that eligible entity, or with a business that is in the industry of a business that is a member of that eligible entity;

(2) business modernization activities; or

(3) activities that are—

(A) workforce investment activities (including such activities carried out through one-stop delivery systems) carried out under subtitle B of title I of the Workforce Investment Act of 1998 (42 U.S.C. 2811 et seq.); or

(B) activities described in section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

(b) ACTIVITIES INCLUDED.—

(1) WORKFORCE DEVELOPMENT ACTIVITIES.—The workforce development activities referred to in subsection (a)(1) may include activities that—

(A) develop skill standards and provide training, including—

(i) assessing the training and job skill needs of the industry involved;

(ii) developing a sequence of skill standards that are benchmarked to advanced industry practices;

(iii) developing curricula and training methods;

(iv) purchasing, leasing, or receiving donations of training equipment;

(v) identifying and developing the skills of training providers;

(vi) developing apprenticeship programs; and

(vii) developing training programs for dislocated workers;

(B) assist workers in finding new employment; or

(C) provide supportive services to workers who—

(i) are participating in a program carried out by the entity under this Act; and

(ii) are unable to obtain the supportive services through another program providing the services.

(2) BUSINESS MODERNIZATION ACTIVITIES.—The business modernization activities referred to in subsection (a)(2) may include activities that upgrade technical or organizational capabilities in conjunction with improving the job skills of workers in a business that is a member of that entity.

SEC. 4. APPLICATION.

To be eligible to receive a grant under section 2, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

SEC. 5. SEED GRANTS AND OUTREACH ACTIVITIES.

(a) SEED GRANTS.—The Secretary shall provide technical assistance and award financial assistance (not to exceed $150,000 per award) on such terms and conditions as the Secretary determines to be appropriate—

(1) to businesses, nonprofit organizations representing businesses, and labor organizations, for the purpose of establishing an eligible entity; and

(2) to entities described in paragraph (1) and established eligible entities, for the purpose of preparing such application materials as may be required under section 4.

(b) OUTREACH AND PROMOTIONAL ACTIVITIES.—The Secretary may undertake such outreach and promotional activities as the Secretary determines will best carry out the objectives of this Act.

(c) LIMITATIONS ON EXPENDITURES.—The Secretary may not use more than 10 percent of the amount authorized to be appropriated under section 8 to carry out this section.

SEC. 6. LIMITATIONS ON FUNDING.

(a) REQUIREMENT OF MATCHING FUNDS.—The Secretary may not award a grant under this Act to an eligible entity unless such entity agrees that the entity will make available non-Federal contributions toward the costs of carrying out activities funded by that grant in an amount that is not less than $2 for each $1 of Federal funds made available through the grant.

(b) IN-KIND CONTRIBUTIONS.—The Secretary—

(1) shall, in awarding grants under this Act, give priority consideration to those entities whose members offer in-kind contributions; and

(2) may not consider any in-kind contribution in lieu of or as any part of the contributions required under subsection (a).

(c) SENIOR MANAGEMENT TRAINING AND DEVELOPMENT.—An eligible entity may not use any amount made available through a grant awarded under this Act for training and development activities for senior management, unless that entity certifies to the Secretary that expenditures for the activities are—

(1) an integral part of a comprehensive modernization plan; or

(2) dedicated to team building or employee involvement programs.

(d) PERFORMANCE MEASURES.—Each eligible entity shall, in carrying out the activities described in section 3, provide for development of, and tracking of performance according to, performance outcome measures.

(e) ADMINISTRATIVE COSTS.—Each eligible entity may use not more than 10 percent of the amount made available to that entity through a grant awarded under this Act to pay for administrative costs.

(f) MAXIMUM AMOUNT OF GRANT.—No eligible entity may receive—

(1) a grant under this Act in an amount of more than $1,000,000 for any fiscal year; or

(2) grants under this Act in any amount for more than 3 fiscal years.

(g) SUPPORT FOR EXISTING OPERATIONS.—

(1) IN GENERAL.—In making grants under this Act, the Secretary may use a portion equal to not more than 50 percent of the funds appropriated to carry out this Act for a fiscal year, to support the existing training and modernization operations of existing eligible entities.

(2) ENTITIES.—The Secretary may award a grant to an existing eligible entity for existing training and modernization operations only if the entity—

(A) currently offers (as of the date of the award of the grant) a combination of training, modernization, and business assistance services; and

(B) has demonstrated success in accomplishing the objectives of activities described in section 3.

(3) APPLICATION.—Paragraph (1) shall not apply to support for the expansion of training and modernization operations of existing eligible entities.

(4) DEFINITIONS.—In this subsection:

(A) EXISTING TRAINING AND MODERNIZATION ACTIVITY.—The term ''existing training and

modernization activity'' means a training and modernization activity carried out prior to the date of enactment of this Act.

(B) EXISTING ELIGIBLE ENTITY.—The term ''existing eligible entity'' means an eligible entity that was established prior to the date of enactment of this Act.

SEC. 7. GENERAL ACCOUNTING OFFICE STUDY.

(a) STUDY.—Beginning 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study concerning the activities carried out under this Act. In conducting the study, the Comptroller General shall assess the effectiveness of the activities and suggest improvements to the grant program established under this Act, including recommending whether the program should be administered by the Department of Labor or by another agency or an alternative entity.

(b) REPORT.—Not later than 3 years and 6 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing the results of the study.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $15,000,000 for fiscal year 2004;

(2) $20,000,000 for fiscal year 2005;

(3) $25,000,000 for fiscal year 2006; and

(4) $30,000,000 for fiscal year 2007.

By Mr. BINGAMAN:

S. 1966. A bill to require a report on the detainees held at Guantanamo Bay, Cuba; to the Committee on Armed Services.

Mr. BINGAMAN. Mr. President, I want to speak for just a few minutes today on an issue on which I have introduced a bill. The bill is S. 1966. It is a bill to require a report on the detainees being held at Guantanamo Bay, Cuba.

The purpose of this legislation is to shed some light on the process that is being used by this administration to determine the status of so-called enemy combatants who are held by our Government at Guantanamo Bay Naval Base. It has now been nearly 2 years since the first detainees arrived at Guantanamo as prisoners of the United States. Yet these individuals are still being held in what most would refer to as legal limbo.

My colleagues will recall that on July 16, I urged the Senate to adopt an amendment to the Defense appropriations bill. That amendment was tabled 52 to 42. It is essentially the same provision—it contained the same provisions I have now put into S. 1966, this freestanding legislation I have introduced.

The day after that amendment was defeated I sent a letter to Secretary Rumsfeld expressing my concern over the apparent lack of any kind of legal process being extended to the detainees being held at Guantanamo. Only recently I received a reply from the Department of Defense. In that letter, the Department of Defense maintains that it:

> . . . reviews on a regular basis the continued detention of each enemy combatant and assesses the appropriate disposition of each individual case.

According to the Defense Department, at the time they wrote back to me, they said that the review had resulted in the release of 64 detainees who were determined to no longer pose a threat to the United States, and more releases were expected.

However, the letter fails to address the more important question, which is whether the Department's review of these detainees is being done in accordance with any recognized civilian or military legal process.

I ask unanimous consent to have the letter printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. BINGAMAN. What prompted me to come to the floor of the Senate today was an article I saw in the morning paper. This appeared in various papers around the country, but the one I have here in front of me is from the Boston Globe. It says:

> The U.S. military sent home 20 ''enemy combatants'' last weekend who were being held without trial at Guantanamo Bay Naval Base in Cuba, only to replace them with the same number of new prisoners.

It has a quotation from a spokesperson for the military saying:

> We cannot talk about any of the individuals that may have departed the island due to security concerns.

According to this article, all those transferred last week have been returned, many of them to Pakistan, and all of those transferred last weekend, according to representatives from the countries they are citizens of, said they will be released once they have arrived in those countries.

The figure now, as I understand it, is there are 88 suspects who have been transferred out of Guantanamo Bay. Four were released, 4 were handed over to Saudi Arabia, and the remaining 650 or 700 are still there. As this article indicated, we continue to add additional people to this prison we are operating there at Guantanamo.

There are various complaints described in the article by foreign diplomats about the process we are following. There is a statement by the attorney for one of the human rights organizations that has complained bitterly about the improvisational policy decisions and the arbitrary power over prisoners at the base.

My motives for offering this legislation are very simple. While I obviously have concerns about judicial treatment and the failure of any kind of legal process being followed in the treatment of these detainees in Guantanamo, I am even more concerned about the implications of this treatment we are affording these individuals for our own fighting forces as well as our international reputation.

The bill I filed here in the Senate today requires the Secretary of Defense to report on the status of these detainees, including the process that was utilized to determine that status for those who have already been released from Guantanamo. The bill requires the Secretary to provide information related to this release, how long they were detained, the conditions of their release, if any, the explanations of why the Department of Defense has now determined these individuals could be released after what has in many cases been a very long detention.

For the remaining detainees—those who are still at Guantanamo—the administration has still refused to provide ''access to an impartial tribunal to review whether any basis exists for [detainees] continued detention.'' The detainees have not been allowed to speak with their families or their counsel, nor have they been informed of any charges against them, as far as I am informed.

The bill I filed requires that within 90 days of its enactment the Secretary of Defense provide the Senate with information related to the process used to categorize and hold these detainees. It does not call for release of the detainees. It does not in any way, shape, or form require the release of any classified information other than to the chairman and vice chairman of the Senate and House committees. The amendment merely seeks to clarify for the Senate and for the Congress the process by which the detainees' status is determined.

Like most Americans, I have always thought that what distinguished our country in the history of the world was our commitment to individual freedom and to the rule of law; that the bedrock of a free society is the obligation taken by the Government to afford individuals with certain legal protections, and as a Nation committed to these principles we have been instrumental in the formulation and enforcement of international law, particularly when it came to the treatment of prisoners of war. For over 75 years, the United States has adhered to the Geneva Convention. Even during conflicts with insurgents and irregular forces, we have adhered to the Geneva Convention. Whenever our Nation has gone to war, we have taken pride in going above and beyond the requirements of international law as set out in the third Geneva Convention of 1929. In fact, the Department of Defense has adopted its own detailed regulations and doctrine and field manuals built on the provisions of the Geneva Convention which have guided our military through many conflicts regardless of size and scope and duration.

These regulations we have in our own military, like international law, do not contemplate the legal limbo we are holding these detainees in at Guantanamo. Neither the Geneva Convention nor the established military regulations define or use the term the President is using here. This term, unlawful combatant, is a new term which has come up in order to sidestep the requirements both of the Geneva Convention and of our own military regulations. Army Regulation 190–8 provides an effective and efficient process to

categorize the detainees on the battlefield. According to that provision, detainees must be classified either as an enemy prisoner of war, a recommended retained person entitled to enemy prisoner-of-war protections, an innocent civilian who should be immediately returned to his or her home or released, or a civilian internee who, for reasons of operational security, or probable cause incident to criminal investigation, should be retained. Such internees have the right to appeal the order directing their internment by challenging the existence of imperative security reasons that led to their detention.

The President's unilateral determination of the detainee's status at Guantanamo Bay signals a significant departure from the spirit of the Geneva Convention and a significant departure from the letter of established military regulations. In stark contrast to our Government's previous commitment to adherence to the rule of law and human rights, this administration has adopted a position that once the President designates that a person is a so-called enemy combatant or unlawful combatant, a term created by the administration, that person can be locked up and held incommunicado as long as the President desires, with absolutely no legal rights; no right to review of that decision. This means even if the administration makes a mistake or is given faulty information, it is virtually impossible for the person involved to prove his or her innocence because not only can they not talk to a lawyer or to family members, but they do not have the right even to know what they are being charged with.

The U.S. Supreme Court has agreed to consider the narrow question of whether the Federal courts have the power to hear challenges to the detainees' imprisonment. This is a significant move towards restoring the system of checks and balances, which needs to be restored—the system of checks and balances our Founders felt was essential to preserving liberty in the country. Similarly, the bill I have filed begins to fulfill Congress's constitutional responsibility to oversee what the executive branch does. It calls on the administration to tell us whether its actions are in accordance with military regulations and doctrine.

Our goal is to bring transparency to the issue and to fulfill Congress's constitutional role of oversight of the executive. We should know what process the administration is using to determine the status of these detainees.

My concern is much broader than what happens to these particular detainees. I am concerned about the impact of our treatment of these detainees on the treatment of our own military personnel who are captured in future conflicts. Former U.S. diplomats and judge advocate generals and even former U.S. prisoners of war filed ''friend of the court'' briefs in the Supreme Court questioning the legality and wisdom of the administration's policy of open-ended detentions at Guantanamo. Some of those briefs were extremely thoughtful, in my view. One former diplomat wrote:

> It has been the experience of each of us that our most important diplomatic asset has been this Nation's values. . . . The hint that America is not all that it claims, that it . . . can accept that the Executive Branch may imprison whom it will and do so beyond the reach of due process of law demeans and weakens this Nation's voice abroad.

In their brief, former judge advocate generals, the military's legal prosecutors and those most familiar with the law as it applies to enemy prisoners of war, strongly argue:

> To be sure, this is a perilous time, as the President has stated. But that does not justify indefinite confinement without any type of hearing or judicial review. The United States played a major role in the development and adoption of the Geneva Conventions. The requirements of those Conventions. The requirements of those Conventions are incorporated directly into American Military Regulations. American failure to provide foreign prisoners with the protections of the Geneva Conventions may well provide foreign authorities, in current or future conflicts, with an excuse not to comply with the Geneva Conventions with respect to captured American military forces.

Just as compelling are the stories told in the ''friends of the court'' brief filed by former prisoners of war. They argue that as a result of their own experience as prisoners of war, the United States has an interest ''in fostering the development, acceptance and enforcement of international norms pursuant to which prisoners of war and others captured during armed conflicts will be treated humanely and in accordance with the rule of law.'' They emphasize, that in particular, they ''wish to ensure that the treatment by the Untied States of foreign detainees . . . is such that the United States and former American POWs retain the moral authority to demand fair and humane treatment for any future Americans detained by foreign governments.''

However, nothing more clearly demonstrates this point than the actual stories themselves. Leslie H. Jackson, Edward Jackfert, and Neal Harrington are former prisoners of war. Mr. Jackson was captured by the Germans, who adhered to the Geneva Conventions. Mr. Jackfert and Mr. Harrington were held by Japan, which had not ratified and did not purport to follow international law.

If you will allow me to read them their brief:

> Mr. Jackson was captured by the German Army on April 24, 1944, when his B–17 bomber crashed. Jailed and interrogated for approximately one week, he was then transported to Stalag 17, a converted concentration camp. In his 13 months of captivity, Mr. Jackson was granted the bare necessities: shelter, minimal food, and the ability to socialize with other American POWs. While the experience was harsh and unpleasant, Mr. Jackson was never tortured or otherwise hurt by the German guards. To follow the terms of the Geneva Conventions of 1929, to which Germany was a party, Mr. Jackson's German captors placed the appropriate Geneva Convention signage in the barracks, permitted the international Red Cross to ship basic necessities to POWs, and allowed a Geneva inspector to survey the premises. Mr. Jackson believes that his survival and relatively good health while in captivity are the result of the German Army's adherence to the 1929 Geneva Conventions.
>
> The experiences of Mr. Jackfert and Mr. Harrington in the custody of Japan, which had not ratified and did not purport to follow the 1929 Geneva Conventions, offer a sharp contrast. Both men were serving with the U.S. Army in the Philippines when it surrendered to the Japanese in 1942, and both subsequently served several years of hard captivity beyond the reach of any Geneva Convention protections. Both were part of the Bataan Death March and its well-documented horrors. Mr. Harrington was forced into slave labor in a Japanese coalmine, and saw his compatriots starved, beaten and killed. Mr. Jackfert was also forced into slave labor and suffered the extreme effects of heavy labor, cruelty and inadequate nourishment, going from 125 pounds to 90 pounds in a matter of months. There was no Geneva signage, no recognition of prisoner rights, and virtually no Red Cross access.
>
> Nor were the experiences of Mr. Harrington and Mr. Jackfert atypical. Studies have determined that the death rate of U.S. Military personnel interned by Japan was as high as 40 percent while the death rate of personnel captured and interned by Germany was little more than 1 percent. . . . Moreover, while it was rare for American POWs detained in Germany to be tortured, the opposite was true for American POWs in Japan. No one can adequately impart the suffering most allied prisoners endured [in Japan]. . . . They were beaten, kicked, robbed . . . and were buried alive. . . . [T]he overwhelming majority endured ''hell on earth.''

Again, let me say, I am in no way suggesting that the detainees are not being treated humanely. In fact, from all information I have received, they are being treated humanely. But what I and these briefs that were filed in the Supreme Court are suggesting is that our failure to adhere to some recognized legal process in determining the status of these detainees opens the door for other countries to refuse to adhere to any legal process as well. It may very well result in arbitrary confinement and harsh treatment or other inhumane practices applied to our own citizens.

This bill will help Congress fulfill its duties and obligations as outlined in the Constitution and in U.S. law and regulation.

I hope we can quickly pass this legislation when we return for the second session of the Congress in January.

I yield the floor.

EXHIBIT 1

[From the Boston Globe, Nov. 25, 2003]

US RELEASES 20 DETAINEES, TRANSFERS 20 MORE TO CUBA

(By Charlie Savage)

WASHINGTON.—The U.S. military sent home 20 ''enemy combatants'' last weekend who were being held without trial at Guantanamo Bay naval base in Cuba—only to replace them with the same number of new prisoners.

The prisoner transfer, the first such movement since mid-July, followed a determination by senior military and intelligence officials that the outgoing group ''either no

longer posed a threat to U.S. security or no longer required detention by the United States,'' according to a statement the Department of Defense released yesterday.

''We can't talk about any of the individuals that may have departed the island due to security concerns,'' said Lieutenant Colonel Pamela Hart, a spokeswoman for the isolated facility at which the United States detains and interrogates suspected terrorists.

But a high-ranking Pakistani official, who said yesterday that at least five of the outgoing transferees were Pakistani citizens, offered a chilly reaction to the Pentagon's news.

''The government is happy, but this is too damn late,'' said Imran Ali, second secretary of the Pakistan Embassy, adding that 21 Pakistanis have been released from Guantanamo, but another 37 are still there.

''Their lives have been destroyed. Their families have gone through psychological trauma, since they were not terrorists; they were just low-level Taliban fighters.''

The Pakistani official's reaction illustrated the pressure on the United States to resolve the situation—especially from allies in the war on terrorism who have expressed concern for their citizens who are among the 660 prisoners from 42 countries being held at the base.

Although the State Department has been negotiating with a number of countries to continue the detention of some, all those transferred last weekend will be released by their countries, U.S. officials said.

The Pentagon statement said that ''at the time of their detention, these enemy combatants posed a threat to U.S. security.'' It offered little information about the new arrivals, except that they were transferred from U.S. Central Command in the Middle East.

Navy Lieutenant Commander Barbara Burfeind, a Pentagon spokeswoman, said none of the new detainees were captured in Iraq.

The weekend transfers of the detainees bring to 88 the number of Al Qaeda or Taliban suspects who have been transferred out. Of those, 84 were released and four were handed over to Saudi Arabia.

Ruth Wedgwood, an international law professor at Johns Hopkins University, said the arrival of the 20 new detainees follows a flare-up of fighting by Taliban insurgents in Afghanistan.

Wedgwood has defended the Bush administration's position that the rules of the Geneva Conventions do not apply to the detainees because they were not soldiers of a regular Afghan army.

''Dismayingly, the Taliban have become very active again in the southern area, so really . . . the war isn't over in that area,'' she said.

Not among those who were transferred for release, according to a senior Pentagon official, were the three ''juvenile enemy combatants''—Afghans ages 13 to 15 who were captured fighting alongside the Taliban and whose detention at the prison has attracted particularly intense international criticism. The commander of Guantanamo operations, Major General Geoffrey Miller, had recommended that they be sent home in August.

U.S. officials say they have been coordinating with UNICEF in the event that the young fighters are released. UNICEF, a United Nations agency that has offered to handle the juvenile combatants, runs a program to ease the reintegration of former child soldiers back into their home societies.

''The State Department and UNICEF will make sure that if they're returned to Afghanistan, they won't just be plopped down,'' a Pentagon official told The Boston Globe last week.

Ken Hurwitz of the Lawyers Committee for Human Rights, a New York-based organization, said that the surprise release reflected the military's ''improvisational'' policy decisions and its arbitrary power over the prisoners at the base.

''It's the rule of law that's the point,'' he said. ''They're saying, 'Trust us, and we'll do the right thing.' But there is no right thing unless it's pursuant to some kind of ordered, lawful proceeding.''

Challenges to the detentions that have been filed in federal court have so far been dismissed because the base is located on Cuban soil—it has been leased and controlled by the United States for a century—and outside the jurisdiction of U.S. sovereignty. Two weeks ago, the Supreme Court said it would review the question of whether federal court jurisdiction may extend there.

In a related development, the lawyer for Army Captain James ''Yousef'' Yee, the former Muslim chaplain at Guantanamo who was arrested in September in the alleged mishandling of classified material, sent a letter to President Bush yesterday asking that his client be released from pretrial detention for Thanksgiving and his daughter's birthday.

''These charges do not warrant pretrial confinement of any kind,'' Eugene Fidell wrote in the letter. ''While military sources initially reported a wild laundry list of suspected offenses, such as spying or aiding the enemy, these have now been reduced to two relatively minor [charges]. . . . Nonetheless, he is being treated as if the original laundry list of charges was the legal basis for his confinement. This is totally wrong and unfair.''

Sean McCormack, a spokesman for the National Security Council, said he would look into the letter, but had no comment on the president's behalf.

By Mr. HAGEL (for himself and Ms. SNOWE):

S. 1967. A bill to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, to repeal the prohibition of interest on business accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1967

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 ''Interest on Business Checking Act of 2003''.

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) IN GENERAL.—Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended by inserting after paragraph (2) the following:

''(3) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in paragraph (2) to make not more than 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this paragraph shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act, unless the Board of Governors of the Federal Reserve System determines otherwise.''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)), as amended by subsection (a), is further amended—

(A) in paragraph (1), by striking ''but subject to paragraph (2)'';

(B) by amending paragraph (2) to read as follows:

''(2) No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.''; and

(C) in paragraph (3), by striking ''and is not a deposit or account described in paragraph (2)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date which is 2 years after the date of enactment of this Act.

SEC. 3. AUTHORIZATION OF INTEREST-BEARING TRANSACTION ACCOUNTS.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is repealed.

(2) HOME OWNERS' LOAN ACT.—Section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is repealed.

(b) JOINT RULEMAKING REQUIRED.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Treasury and the Federal banking agencies shall issue joint final regulations authorizing the payment of interest and dividends on transaction accounts at depository institutions that are subject to regulation by those entities.

(2) CONTENTS.—Regulations required by this subsection shall—

(A) establish the scope of the authorization described in paragraph (1) and the types of transaction accounts to which that authorization shall apply; and

(B) include any appropriate limitations, exceptions, or restrictions on that authorization, consistent with the purposes of this section.

(3) EFFECTIVE DATE OF REGULATIONS.—The regulations required by this subsection shall take effect not later than 2 years after the date of enactment of this Act.

(4) DEFINITIONS.—As used in this subsection—

(A) the terms ''depository institution'' and ''transaction account'' have the meanings given such terms in subparagraphs (A) and (C), respectively, of section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)); and

(B) the term ''Federal banking agency'' has the meaning the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) EFFECTIVE DATE OF REPEAL.—The amendments made by subsection (a) shall become effective on the earlier of—

(1) 2 years after the date of enactment of this Act; or

(2) the date on which final regulations required to be issued under subsection (b) become effective.

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following:

''(12) EARNINGS ON RESERVES.—

''(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

''(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may promulgate regulations concerning—

''(i) the payment of earnings in accordance with this paragraph;

''(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

''(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

''(C) DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to any institution described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).''.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ''which is not a member bank''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4),

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A), by striking ''subsection (b)(4)(C)'' and inserting ''subsection (b)''.

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio not greater than 3 percent (and which may be zero)''; and

(2) in clause (ii), by striking ''and not less than 8 per centum,'' and inserting ''(and which may be zero),''.

SEC. 6. TREATMENT OF CERTAIN ESCROW ACCOUNTS.

(a) IN GENERAL.—In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction, activities described in subsection (b) shall not be treated as the payment or receipt of interest for purposes of this Act or any other provision of law relating to the payment of interest on accounts or deposits maintained at depository institutions, including such provisions in—

(1) Public Law 93–100;

(2) the Federal Reserve Act;

(3) the Home Owners' Loan Act; or

(4) the Federal Deposit Insurance Act.

(b) EXCLUSIONS.—For purposes of subsection (a), activities described in this paragraph are—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to an escrow account described in subsection (a);

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in paragraph (1) or (2) or a similar action.

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

S. 1968. A bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, it wasn't all that long ago that a good education consisted of providing our children with a strong background in reading, writing and arithmetic skills, mixed with an understanding of history and a good hard look at civics and how our government works. We thought, if our sons and daughters had taken courses in those subjects and mastered them, they were as prepared as they could be to face the real world, get good jobs, and one day, live happily ever after. Unfortunately, we left one vital skill out of the mix.

As an accountant, I have become increasingly concerned about the lack of knowledge we have as a society, and especially, the lack of insight we share with our children about money and how to properly handle it, budget it, and use it to plan for their retirement. The numbers are quite startling when you take a close look at how many of our children are leaving college already saddled with credit card debt and school loans that need to be repaid. It wasn't like that when many of us were in college. School didn't seem to cost nearly as much as it does now, and the scourge of a strong economy, easily available credit, hadn't reached the ranks of our schools yet.

This is a problem at the present time, but if we don't act quickly to make sure our Nation's young people receive the advice and education they need on handling money and planning their finances for the future, we will have a disaster on our hands. Young men and women, in their prime earning years, are facing a mountain of personal debt at high interest rates, with little hope of paying it off anytime soon. Clearly, that is something we must take every action to help future generations of students avoid.

That is why I am introducing the Financial Literacy in Higher Education Act with my colleague, Senator AKAKA. Senator AKAKA and I share many of the same ideas with respect to the importance of financial literacy and ensuring our children have a grasp of the implications of their actions when they use the credit they have been extended by banks eager to make quick loans at high interest rates. Senator AKAKA and I worked together on language included in the No Child Left Behind Act to ensure elementary and secondary students would have more access to financial literacy training that we hope will make our children wiser and better users of consumer credit.

This bill builds on the activities we helped authorize in No Child Left Behind. It emphasizes financial literacy for students enrolled in institutions of higher education, or students who will soon be enrolled. With the training and real life advice they will receive in these courses we will be able to reduce the number of our children who leave high school and head out into the world on their own with little or no preparation for the demands that will be placed on their limited incomes.

Our legislation would include financial literacy and personal finance in the list of permissible activities of several programs authorized under the Higher Education Act. These programs are set up to support students, and I believe financial literacy should be an important aspect of the support process. Attending college is a necessary step that must be taken if our young adults are to succeed in the work force, and learning how to make a personal budget and meet individual financial obligations should be a priority in that process.

Our bill would also emphasize financial literacy in exit counseling for college students receiving federal student financial assistance. Today's undergraduate students are leaving school with an average of nearly $17,000 in student loan obligations. This can be a large burden to bear, but it becomes impossible to address if a young man or woman is unable to successfully manage their own finances.

The answer to this challenge is to start educating students before they experience financial difficulty. Students who are faced with the possibility of accruing larger and larger levels of debt must be taught the full meaning and significance of concepts as simple as compound interest, credit scores, and minimum payments. That way, when they leave school with their lives before them, they will be able to plan how to pay back their student loans, and keep credit card debt to a minimum. Taking the initiative while these students are in school will help them avoid some of the serious problems that can develop when someone has little or poor financial skills. These problems can literally have lifelong implications for those who overextend their resources or fail to learn to live within the limits of a budget.

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. 1968

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 ''Financial Literacy in Higher Education Act''.

SEC. 2. AREAS OF EMPHASIS.

Part B of title I of the Higher Education Act of 1965 (20 U.S.C. 1011 et seq.) is amended by adding at the end the following:

''SEC. 123. AREAS OF EMPHASIS.

''In carrying out activities under this Act related to improving financial and economic literacy, education, and counseling, the Secretary shall emphasize, among other elements, basic personal income and household money management and financial planning skills, and basic economic decision making skills, including how to—

''(1) create household budgets, initiate savings plans, and make strategic investment decisions for education, employment, retirement, home ownership, wealth building, or other savings goals;

''(2) manage credit and debt effectively, including student financial aid and credit card debt, and understand the merits of establishing and maintaining excellent credit history;

''(3) understand, evaluate, and compare fair and favorable financial products, services, and opportunities, and avoid abusive, predatory, or deceptive financial products, services, and opportunities;

''(4) complete tax returns and understand tax consequences when making certain financial decisions, such as placing an investment or purchasing a home;

''(5) identify economic problems, alternatives, benefits, and costs;

''(6) analyze the incentives at work in an economic situation;

''(7) examine the consequences of changes in economic conditions and public policies;

''(8) collect and organize economic evidence, including understanding, evaluating, and making strategic decisions using economic indicators;

''(9) compare benefits with costs; and

''(10) improve financial and economic literacy and education through all other related skills.''.

SEC. 3. COORDINATION.

In carrying out the financial and economic literacy activities authorized under this Act and the amendments made by this Act, the Secretary of Education, to the greatest extent practicable, shall coordinate such activities with the financial and economic literacy efforts of a Federal commission comprised of the following:

(1) The Secretary of the Treasury.

(2) The respective head of each of the following:

(A) Each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

(B) The National Credit Union Administration.

(C) The Securities and Exchange Commission.

(D) Each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs.

(E) The Federal Trade Commission.

(F) The General Services Administration.

(G) The Small Business Administration.

(H) The Social Security Administration.

(I) The Commodity Futures Trading Commission.

(J) The Office of Personal Management.

(3) At the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

SEC. 4. ENHANCEMENT OF FINANCIAL LITERACY AND ECONOMIC LITERACY.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 201(a)(3), by inserting ''personal finance,'' after ''economics,'';

(2) in section 311(c)—

(A) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively; and

(B) by inserting after paragraph (6) the following:

''(7) Education or counseling services designed to improve the financial literacy and economic literacy of students and their parents.'';

(3) in section 316(c)(2)—

(A) by redesignating subparagraphs (G) through (L) as subparagraphs (H) through (M), respectively;

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

''(G) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;''; and

(C) in subparagraph (M), as redesignated by subparagraph (A), by striking ''subparagraphs (A) through (K)'' and inserting ''subparagraphs (A) through (L)'';

(4) in section 317(c)(2)—

(A) in subparagraph (G), by striking ''and'' after the semicolon;

(B) in subparagraph (H), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(I) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents.'';

(5) in section 323(a)—

(A) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively; and

(B) by inserting after paragraph (6) the following:

''(7) Education or counseling services designed to improve the financial literacy and economic literacy of students and their parents.'';

(6) in section 326(c)—

(A) by redesignating paragraphs (5) through (7) as paragraphs (6) through (8), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;'';

(7) in section 503(b)—

(A) by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) Education or counseling services designed to improve the financial literacy and economic literacy of students and their parents.'';

(8) in section 402B(b)—

(A) by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively;

(B) by inserting after paragraph (2) the following:

''(3) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;''; and

(C) in paragraph (11), as redesignated by subparagraph (A), by striking ''paragraphs (1) through (9)'' and inserting ''paragraphs (1) through (10)'';

(9) in section 402C—

(A) in subsection (b)—

(i) by redesignating paragraphs (2) through (12) as paragraphs (3) through (13), respectively;

(ii) by inserting after paragraph (1) the following:

''(2) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;''; and

(iii) in paragraph (13), as redesignated by clause (i), by striking ''paragraphs (1) through (11)'' and inserting ''paragraphs (1) through (12)''; and

(B) in subsection (e), by striking ''subsection (b)(10)'' and inserting ''subsection (b)(11)'';

(10) in section 402D(b)—

(A) by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively;

(B) by inserting after paragraph (1) the following:

''(2) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;''; and

(C) in paragraph (11), as redesignated by subparagraph (A), by striking ''paragraphs (1) through (9)'' and inserting ''paragraphs (1) through (10)'';

(11) in section 402E(b)—

(A) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(B) by inserting after paragraph (6) the following:

''(7) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;'';

(12) in section 402F(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively;

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

''(4) education or counseling services designed to improve the financial literacy and economic literacy of students and their parents;''; and

(C) in paragraph (11), as redesignated by subparagraph (A), by striking ''paragraphs (1) through (9)'' and inserting ''paragraphs (1) through (10)'';

(13) in section 404D(b)(2)(A)(ii), by striking ''and academic counseling'' and inserting ''academic counseling, and financial literacy and economic literacy education or counseling'';

(14) by striking section 418A(c)(1)(B)(i) and inserting the following:

''(i) personal, academic, career, and economic education or personal finance counseling as an ongoing part of the program;'';

(15) in section 428F, by adding at the end the following:

''(c) FINANCIAL AND ECONOMIC LITERACY.—Where appropriate, each program described under subsection (b) shall include making available financial and economic education materials for the borrower.'';

(16) in section 432(k)(1), by striking ''and offering'' and all that follows through the period and inserting '', offering loan repayment matching provisions as part of employee benefit packages, and providing employees with financial and economic education and counseling.'';

(17) in section 441(c)—

(A) in paragraph (1), by inserting ''financial literacy and economic literacy,'' after ''social services,''; and

(B) in paragraph (4)(C), by striking the period at the end and inserting ''and counseling for the purposes of improving financial literacy and economic literacy.'';

(18) in section 485—

(A) in subsection (a)(1)(D), by striking the semicolon at the end and inserting '', including the merits of taking a personal finance course, if the institution offers such a course, and of the student reviewing the student's personal credit profile not less frequently than once a year;'';

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) in clause (i), by striking ''and'' after the semicolon;

(II) in clause (ii), by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(iii) if it is determined during the counseling that the borrower is not connected to a mainstream financial institution, information about low-cost financial services and the benefits of using such services, and where and how the borrower could open a low-cost account in a federally insured credit union or bank.''; and

(ii) by adding at the end the following:

''(3) PILOT PROGRAM.—

''(A) AUTHORIZATION.—

''(i) IN GENERAL.—The Secretary shall establish a pilot program that awards a total of 5 grants to 5 different institutions of higher education that are located in geographically different parts of the United States to enable the institutions to provide annual personal finance counseling for students enrolled at such institutions.

''(ii) MINORITY SERVING INSTITUTIONS.—In awarding grants under this paragraph, the Secretary shall award not less than 2 of the 5 grants to institutions of higher education that are eligible to receive assistance under title III or title V.

''(B) APPLICATION.—An institution of higher education that desires to receive a grant under this paragraph shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(C) USE OF FUNDS.—

''(i) COUNSELING.—

''(I) IN GENERAL.—In addition to making available exit counseling under paragraph (1), an institution of higher education that receives a grant under this paragraph shall through financial aid officers or otherwise, make available counseling to borrowers of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 428B) of this title or made under part D or E of this title at the commencement of the borrower's course of study at the institution, not less frequently than once annually while the borrower is enrolled at the institution, and not later than 30 days after completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution.

''(II) CONTENT.—The counseling required under subclause (I) shall include the average anticipated monthly repayments, a review of the repayment options available, the total amount of interest that would be paid over a range of possible interest rates and the amount of interest in the monthly payments, information on the availability and content of a personal finance course if such course is offered by the institution and if not already completed by the individual, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness, which may be implemented in partnership with State or local public, private, and nonprofit entities approved by the local educational agency that serves schools in the area where the institution is located, or a campus committee formed for the purpose of evaluating the qualifications of such entities. If it is determined during the counseling that the borrower is not connected to a mainstream financial institution, the counseling shall include information about low-cost financial services and the benefits of using such services, and where and how the borrower could open a low-cost account in a federally insured credit union or bank.

''(ii) PERMISSIVE USE.—Grant funds received under this paragraph may be used to pay for additional financial aid personnel or for training for existing financial aid personnel.

''(iii) STUDY.—

''(I) IN GENERAL.—An institution of higher education that receives a grant under this paragraph shall conduct a study to evaluate the impacts, if any, of the financial and economic literacy and counseling activities on students' levels of savings and indebtedness, and creditworthiness, and such activities' effectiveness in reducing the incidence of problems with handling credit, including bankruptcy filing and student financial loan default.

''(II) ASSISTANCE.—An institution of higher education may conduct the study under subclause (I) with the assistance of appropriate Federal agencies or other entities approved by the Secretary.

''(III) REPORT.—Not later than 6 months after completion of the study under subclause (I), the institution of higher education shall report the results of such study to the Secretary, the Secretary of the Treasury, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Financial Services of the House of Representatives.

''(D) DURATION.—Grants awarded under this paragraph shall be for a period of 3 years.

''(E) AMOUNT.—The Secretary shall award grants of not more than $1,000,000 annually to each institution of higher education awarded a grant under this paragraph. The Secretary may determine the grant award amount based on the number of students to be counseled at the institution of higher education.

''(F) REPORT.—Not later than 90 days after the date of completion of the pilot program under this paragraph, the Secretary shall submit a report to Congress on the effectiveness of the program.

''(G) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph such sums as may be necessary for each of fiscal years 2005 through 2009.''; and

(C) in subsection (c), by adding at the end the following: ''Appropriate Federal agencies shall provide material developed by such agencies for the purpose of financial education, to financial assistance information personnel at institutions of higher education for the use of such personnel in financial aid counseling.''; and

(19) in section 491(d)(8), by inserting '', including those related to financial literacy activities,'' after ''resources and services''.

SEC. 5. EVALUATION.

Not later than 6 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Financial Services of the House of Representatives, an evaluation of the range and effectiveness of financial and economic education and financial aid counseling activities of institutions of higher education, lenders, servicers, and guaranty agencies as emphasized by the Secretary of Education pursuant to section 123 of the Higher Education Act of 1965.

Mr. AKAKA. Mr. President, I am pleased to introduce the Financial Literacy in Higher Education Act with Senator ENZI and original cosponsors of S. 1800, the College LIFE, Literacy in Finance and Economics Act, Senators SARBANES and CORZINE.

This is truly a bipartisan compromise on the provisions of S. 1800, the College LIFE Act, and I appreciate Senator ENZI's willingness to collaborate on this matter. As in S. 1800, the Financial Literacy in Higher Education Act proposes a pilot program for five higher education institutions to encourage students to take a personal finance course and participate in preventive annual credit counseling, working in conjunction with State or local public, private, and nonprofit entities selected by the local education agency or the school, and measuring the effectiveness of efforts in any behavioral changes that may result.

The bill emphasizes the importance of personal finance and economic education and counseling by authorizing these activities as allowable uses in existing Higher Education Act programs, such as TRIO, GEAR UP, and title III and title V Serving Institutions. These are programs that have been successful in expanding higher education access to populations with unique needs and, therefore, are ideal avenues through which we can further the important components of financial and economic literacy, such as wise budgeting, saving, debt management, tax preparation, and avoiding predatory or abusive practices.

The bill promotes greater collaboration with and support from Federal agencies in the higher education arena with respect to economic and financial literacy, including coordination with the Financial Literacy and Education Commission, which was created by title V of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003. The conference report of H.R. 2622 was adopted recently by this Chamber and the other body. For those who may not be familiar with the Commission, the new entity will work to improve financial literacy and education in the United States through the development of a national strategy.

I urge my colleagues to support this bipartisan effort to increase the financial and economic literacy of our college students. I will also work with my colleagues on advancing the grant programs in S. 1800 that are not in our compromise package, because I feel that those, too, are important parts of our overall effort. Students in higher education are some of our Nation's best and brightest, and we must work to give them the tools that will help them succeed. Not the least among these is literacy in personal finance and economics.

By Mr. ROCKEFELLER:

S. 1970. A bill to amend title 11, United States Code, to increase the amount of unsecured claims for salaries and wages given priority in bankruptcy, to provide for cash payments to retirees to compensate for lost health insurance benefits resulting from the bankruptcy of their former employer, and for other purposes; to the Committee on the Judiciary.

Mr. ROCKEFELLER. Mr. President, over the last several years as the economy came down from the high of the 1990s, we have seen how devastating it can be for workers when their companies declare bankruptcy. From the enormous Enron bankruptcy at the end of 2001 to the bankruptcies of Wheeling-Pitt and then Weirton Steel in my own home State, every bankruptcy has brought heartache for workers who had dedicated themselves to their employers. In many cases, employees and retirees have very limited ability to recover the wages, severance, or benefits they are due when their companies seek protection from creditors.

Workers deserve better. So today I am introducing the Bankruptcy Fairness Act to strengthen workers' rights in bankruptcy and to provide greater authority to bankruptcy courts to ensure a fair distribution of assets. Specifically, my bill will do three things. It will ensure that retirees whose promised health insurance is taken away receive at least some compensation for their lost benefits. Second, my legislation would allow employees to recover more of the back-pay or other compensation that is owed to them at the time of the bankruptcy. And lastly, I would provide bankruptcy courts the authority to recover company assets in cases where company managers flagrantly paid excessive compensation to favored employees just before declaring bankruptcy.

I am proposing this legislation as a way to start a dialogue about how we can better protect workers whose companies file for bankruptcy. I do not pretend to have all the answers. But I do know that we must do a better job of easing the burden that bankruptcy imposes on employees and retirees. And I believe that we can do so in creative ways that do not make it more difficult for companies to successfully reorganize and emerge from bankruptcy. I look forward to the ideas and suggestions of my colleagues.

In the simplest economic terms, employees sell their labor to their companies. They toil away in offices, plants, factories, mills, and mines, because they are promised that at the end of the day they will receive certain compensation. One of the most important types of compensation that workers earn is the right to enjoy certain benefits when they retire. Pensions, life insurance, or health care coverage are earned by workers in addition to their weekly paychecks. Yet, sadly we have seen many companies in the last few years abandon these promises when they declare bankruptcy.

More and more we see companies taking the easy road to profitability by abandoning commitments that they made to workers. For retirees who have planned for their golden years based on the benefits they have earned, losing health insurance can be a devastating blow. Retirees must have the right to reasonable compensation if the company seeks to break its promise to provide health insurance. Under current law, these retirees receive what is called a general unsecured claim for the value of the benefits they lost. As any creditor will tell you, a general unsecured claim is essentially worthless in most bankruptcies. It means you are at the end of the line, and there are not enough assets to go around. This law allows companies to essentially rescind compensation that retirees have earned with virtually no cost to the company. Of course that is a great deal for the company, but it is spectacularly unfair to the retirees.

Recognizing that so-called legacy costs are often an impossible burden for a company that is trying to emerge from bankruptcy, my legislation would still allow companies in some circumstances to alter the health coverage offered to retirees. However, it would require that the company pay a minimum level of compensation to retirees. Under this bill, each retiree would be entitled to a payment equal to the cost of purchasing comparable health insurance for a period of 18 months. Of course, 18 months of health insurance coverage is a lot less than many of these retirees are losing, but it can ease the transition as retirees make alternative plans, and it will discourage companies from thinking that terminating retiree health coverage is an easy solution. The retirees would still be entitled to a general unsecured claim for the value of the benefits lost in excess of this one time payment. This change would ensure that retirees, while still not being made whole on lost benefits, will at least receive some compensation for the broken promises.

Many active workers, too, have a difficult time recovering what is owed to them by their employer when the company files bankruptcy. Under current law, employees are entitled to a priority claim of up to $4,650. But that figure is usually not enough to cover the back-wages, vacation time, severance pay, or benefit payments that the employees are owed for work done prior to the bankruptcy. Congress needs to update the amount of the priority claim to ensure that more workers are able to receive what is rightfully theirs. The Bankruptcy Fairness Act would establish a priority claim for the first $15,000 of compensation owed to an employee.

In most cases, employees have been working their hardest to help the company avoid the nightmare of bankruptcy, only to find that they will not be compensated for their services as promised. As we saw so clearly with the Enron case, employees are often left holding the bag when their company declares bankruptcy. In that case, employees were owed an average of $35,000 in back-wages, severance, and other promised compensation. They deserved to recover more than a mere $4,650 of what was owed them. Let me be clear, this bill does not establish any new obligation for a company to pay severance or other compensation to employees caught up in a company's bankruptcy. It merely ensures that employees can recover more of what is already owed to them through the bankruptcy process.

I understand that many creditors or investors are not able to recover what is rightfully owed to them in bankruptcy, but employees deserve protection that recognizes the unique nature of their dependence on their employer. Any smart investor diversifies his or her portfolio so that a bankruptcy at one company does not bankrupt the investor. Likewise, suppliers and creditors that do business with a company typically have many other clients. This is not the case with workers. They cannot diversify away from the risk of working for a bankrupt company, and the financial hardship a bankruptcy brings is more devastating to the average worker than the average creditor or supplier.

Now, I know that some of my colleagues listening to this may be worrying that this legislation is insensitive to the needs of companies that are trying to reorganize in order to emerge from bankruptcy and go forward as successful businesses. I am fully aware that sometimes, too often in the real world, the bankruptcy process can help companies stay open and maintain jobs by restructuring obligations to creditors. Too many companies in West Virginia have had to go through the painful process of Chapter 11 reorganization. I completely understand the need to keep the factories open. And I have always worked side by side with companies to help them recover.

I will continue that important work, and I have included a provision in this bill to help bankrupt companies that are struggling to survive to recover assets that have been pilfered from the corporate coffers. In too many cases, company executives reward themselves even as their companies careen toward bankruptcy. The most egregious recent example is at Enron in 2001. In the days and weeks leading up to the bankruptcy filing, executives granted large bonuses to themselves and their favored employees. Millions of dollars were paid to a select group of employees just before the company declared bankruptcy. It is unconscionable that executives would grant themselves undeserved bonuses and then weeks later claim that the company did not have the resources to pay its rank and file employees.

My legislation provides bankruptcy courts greater authority to recover excessive compensation that was paid just prior to the bankruptcy filing. If

the court finds that compensation was out of the ordinary course of business or was unjust enrichment, the court can recover those assets for the bankrupt company, ensuring that more creditors, employees, and retirees can receive what is rightfully owed to them by the company.

The reforms I have outlined are modest. They will not take the sting out of bankruptcy. By definition a bankruptcy is a failure, and it is painful for the company's employees, retirees, and business partners. But the Bankruptcy Fairness Act I am introducing today would make progress toward ensuring that bankruptcies are more fair to the workers who gave their time and energy and sweat to the company in exchange for certain promised compensation. And by helping a company recover assets that should not have been paid out as undeserved bonuses just before bankruptcy the bill ensures that more of a company's assets are paid to the employees, retirees, and creditors who are rightfully owed.

It is my hope that this legislation will receive serious consideration from my colleagues, and that this can open an important debate about how workers and retirees can be better protected from the ugly side of prolonged economic downturns.

By Mr. CORZINE (for himself, Mr. DODD, and Mr. LIEBERMAN):

S. 1971. A bill to improve transparency relating to the fees and costs that mutual fund investors incur and to improve corporate governance of mutual funds; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today, with my colleague from New Jersey, to introduce a measure that is critical to improving the investing public's faith in our capital markets. This legislation, the ''Mutual Fund Investor Confidence Restoration Act'' will fundamentally strengthen protections for the millions of investors who rely on mutual funds for their financial security.

America is the land of opportunity. Millions of Americans and countless others around the world seek the opportunity to participate in the economic life of our nation. Mutual funds are a principal pathway through which most investors achieve financial security. Mutual funds have in the past not only lived up to, but in many cases exceeded, the grand expectations of investors. They are a true success story of our securities markets and our system of securities regulation.

However, in recent months, a series of revelations has shaken investor confidence in the promise of mutual funds. We must restore the faith of investors in mutual funds and those who manage them. This legislation is designed to address some of the abuses and shortcomings which have received so much recent attention.

There are five broad areas which this legislation addresses: corporate governance, disclosures to investors, late trading and market timing, increased regulatory oversight, and financial literacy.

This legislation significantly improves corporate governance standards at mutual funds. Investors have begun to lose faith that their hard earned savings are not being managed with their best interests in mind. Mutual fund boards must have greater independence from fund managers and be more accountable to shareholders of the fund. Directors and chairmen must exercise greater oversight to ensure that funds are run in the interest of their shareholders—and be accountable to shareholders for failing to do so. Additionally, this legislation directs the SEC to determine whether directors and chairmen need additional tools to carry out that job.

This legislation mandates that corporate governance requirements created in the Sarbanes-Oxley Act, such as director independence requirements, financial expertise, and certification measures apply to mutual funds. Of particular note, this legislation mandates that funds employ a chief compliance officer to ensure that internal controls, policies and procedures are met by the fund in the interest of shareholders.

We need to improve the disclosures to investors about the fees and costs associated with mutual funds. Current disclosures are inadequate in providing investors the information necessary to understand the true costs of investing through mutual funds. The current expense ratio by no means includes all of the fund's expenses.

This legislation requires that currently unaccounted for expenses, such as brokerage commissions, advertising fees and research costs, among others, are fully disclosed.

Additionally, the legislation requires the breakout of these respective costs to be displayed as a graph provided to shareholders that will enable them to compare the costs associated with owning shares of different mutual funds. The ability to compare the total costs of mutual funds with each other will drive competition and lower costs for investors.

Investors deserve to know if their broker has a financial incentive to steer them into particular mutual funds. This legislation mandates greater disclosure of financial incentives provided to intermediaries and requires fund companies and investment advisers to fully disclose certain sales practices, including revenue-sharing and directed brokerage arrangements and disclose the value of research and other services paid for as part of brokerage commissions.

The recent abuses that we have seen with respect to late trading and market timing must be stopped to restore investors faith in mutual funds. Insider dealings at mutual funds must never recur. Fund insiders must be prohibited from trading against their own shareholders' interest. Neither fund insiders nor preferred customers must enjoy privileges like market timing that are denied to the millions of average mutual fund investors.

Late trading is already illegal, but we now know it isn't isolated. The system for prohibiting late trading in mutual funds must be strengthened, so all mutual fund investors are treated fairly. This legislation creates new requirements for intermediaries and funds to ensure that illegal late trading activities are stopped.

As a result of the recent widespread scandals in this area, we must rededicate our regulatory oversight of the mutual fund industry. Due to the tremendous size of mutual funds and how critical of an investment tool they are to small investors, this legislation directs the General Accounting Office to consider the value of creating a new self regulatory body and/or independent regulator for mutual fund oversight.

Lastly, this legislation calls for improved efforts to promote financial literacy among mutual fund shareholders. Ensuring that investors have the resources available to them to understand the benefits and costs of mutual funds is a fundamental importance.

The Mutual Fund Investor Confidence Restoration Act is an important step in the right direction of restoring the integrity of the mutual fund industry and will greatly improve the basic protections given to investors who rely upon these investment vehicles for their economic security.

Mr. CORZINE. Mr. President, I rise along with my colleague from Connecticut, Senator DODD, to introduce the Mutual Fund Investor Confidence Restoration Act of 2003, a bill that would improve the oversight of the mutual fund industry, enhance fund governance, and protect the millions of Americans who invest in these funds.

Mutual funds are the primary means for investors to participate in the market. Approximately 95 million Americans invest in mutual funds, and investments total near $7 trillion dollars. The industry, one of our oldest and most-revered, is entrusted by those shareholders with their dreams of a comfortable retirement, the ability to pay their children's college tuition, buy a first home or pursue other lifelong dreams.

It's not a stretch to say that in many ways the mutual fund industry has been the standard bearer for ethical behavior, strong oversight and governance committed to investor protection in our capital markets. Few, if anyone, would dare to have suggested that our mutual fund industry could become fertile ground for the types of 'infectious greed' we witnessed during the governance and accounting scandals a few years ago.

But that is just what has happened.

Today, the mutual fund industry faces its own litany of scandals centered on allegations of investor fraud,

flawed corporate governance, financial conflicts of interest and outright investor abuse. Names like Putnam and Canary Capital have become synonymous with Enron, Tyco and WorldCom in terms of the financial harm inflicted upon investors, undermining their confidence and trust in America's financial markets.

The vast majority of those who work in this industry are decent, hard-working individuals who make a significant contribution to the betterment of our nation.

Unfortunately, there are also far too many associated with this profession—including some investment advisors, fund board members, and those in fund company management—who are all too willing to disregard their fiduciary obligation to shareholders in order to pursue their own personal self-enrichment.

Investors should not perceive that the deck is stacked against them. They should not think that there are different rules—one that applies to them and a different and considerably less stringent set that applies to wealthy industry insiders.

The legislation we are introducing today, The Mutual Fund Investor Confidence Restoration Act will make sure that the playing field stays level.

This bill has five primary themes: improving mutual fund governance; enhancing cost, fee and other important disclosures to shareholders; preventing abusive mutual fund practices such as late trading and market timing; strengthening mutual fund industry oversight; and promoting fund shareholder literacy.

Let me give a more detailed summation of what this legislation would do and why it is so important.

Boards of directors for mutual funds have been criticized recently for the high number of directorships that members hold, the lack of board independence from fund management and the failure of several to fulfill their fiduciary responsibility to shareholders. This legislation would strengthen fund governance by establishing truly independent mutual fund boards, chairmen, nominating committees and independent audit committees that conform to Sarbanes-Oxley Act requirements for those at publicly traded companies.

The bill would also improve fund governance by requiring Sarbanes-Oxley-like ''certification'' from Board Chairmen and newly-designated Chief Compliance Officers that shareholders safeguards are in place within the fund.

Also, it would ensure that accurate disclosures to shareholders, including cost and fee information, are contained in the prospectus.

The legislation includes other 'certifiable' requirements for board chairmen and chief compliance officers, including disclosures that internal controls, a code of ethics and personnel designated to ensuring adherence to stated polices and compliance with relevant securities laws, including measures preventing market-timing and late trading abuses, are in place at the fund and with the investment adviser. Additionally, the legislation calls for the disclosure of insider transactions by mutual fund managers and Board notification of Securities and Exchange Commission (SEC) deficiency letters.

Another issue of concern with the mutual fund industry is the inadequate and confusing disclosure provided to shareholders regarding expenses. Fund shareholders are responsible for paying various fees and costs related to the operation and trading activity of the fund. While funds provide investors with certain fee-related disclosure, shareholders are largely in the dark about many other costs that impact the value of their fund's assets.

The legislation includes numerous provisions aimed at improving the cost, fee and other disclosures shareholders receive from mutual funds. These would include requirements that funds disclose the actual cost borne by each shareholder for the operating expenses of the fund and the estimated expenses paid for costs associated with management of the fund that reduces the fund's overall value, including brokerage commissions, revenue sharing and directed brokerage arrangements, transactions costs another fees.

The legislation would require a breakdown of these respective costs to be displayed graphically, in order to provide shareholders with the requisite information to compare the costs associated with owning shares of various mutual funds.

In addition these requirements, the legislation would require fund companies and investment advisers to fully disclose certain sales practices, including revenue-sharing and directed brokerage arrangements, shareholder eligibility for breakpoint discounts and the value of research and other services paid for as part of brokerage commissions, directing the SEC to study so-called ''soft-dollar'' arrangements.

As I mentioned earlier, Mr. President, this bill includes measures aimed at preventing abusive mutual fund practices, such as late trading and market timing, that diminish the shareholders' assets of a particular fund. First, the legislation seeks to ensure that fund companies and investment advisers have adequate shareholder safeguards in palace, and that they 'certify' these internal control procedures. Those would include establishing a code of ethics, improving the accurate disclosure of fund company policies, and ensuring compliance efforts are overseen by the chief compliance officer.

The bill also would also take steps aimed at directly preventing abusive practices and conflicts of interest. The recent scandals surrounding mutual funds primarily focus on brokers and fund officials that have engaged in the improper trading of mutual fund shares through late trading and market timing. Late trading refers to the practice of placing orders to buy or sell mutual fund shares after 4 p.m., and market timing is short-term trading in and out of stocks in the hope of exploiting an inefficiency in the fund's share price.

To address the issue of market timing, the legislation requires the SEC to ensure that fund companies are in compliance with the Investment Company Act rules requiring them to use fair value calculation to determine the net asset value a fund company's securities when market quotations are otherwise unavailable or do not accurately reflect the companies fair market value. This provision would eliminate the stale pricing that allows market timers to profit, often illicitly, from the inaccurate pricing of a fund's shares.

The legislation would also require the SEC to establish a rule requiring fund companies and investment advisers to develop and disclose formal policies related to market timing and short term trading. Certification by fund company management would further ensure that policies are being adhered to.

To address late trading, the bill requires the SEC to issues rules and establishes guidelines for trades in fund securities that go through newly established ''permitted intermediaries'', such as broker-dealers. The rules would allow these permitted intermediaries to execute trades of a fund after the funds net asset value has been derived, if the intermediary has; a policy in place that the company does not permit late trades, mechanisms in place to detect late-trades and if that intermediary make those procedures available for inspection by the SEC. Non-permitted intermediaries would be required to submit their transactions to the fund company prior to market close.

To reduce other conflicts, the legislation would prohibit mutual fund managers from jointly managing a hedge fund, and would prohibit short-term trading by fund and investment company management and requires disclosure of insider transactions.

In seeking to bolster mutual fund industry oversight, this legislation would require the SEC to review the allocation of the resources it has dedicated to industry oversight and the General Accounting Office (GAO) to study the feasibility of establishing a new, independent regulator—the Mutual Fund Oversight Board. The bill also would direct the SEC to establish incentives and protections for whistleblowers and would require the GAO to independently review and report to Congress on the coordination of enforcement efforts between the SEC, its regional offices, and state regulators.

Finally, this bill calls for a study into ways in which we can improve and promote financial literacy among mutual fund shareholders. And the legislation, through its enhanced disclosures to shareholders, already makes a significant contribution to improving

shareholder understanding of the policies of the fund and the costs associated with its management and operation.

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

S. 1971

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Mutual Fund Investor Confidence Restoration Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—ENHANCING COST, FEE, AND OTHER DISCLOSURES TO SHAREHOLDERS

Sec. 101. Improved transparency of mutual fund costs.
Sec. 102. Obligations regarding certain distribution and soft dollar arrangements.
Sec. 103. Definition of no-load mutual fund.
Sec. 104. Disclosure of incentive compensation and mutual fund sales.

TITLE II—MUTUAL FUND GOVERNANCE

Sec. 201. Independent mutual fund boards.
Sec. 202. Audit committee requirements for investment companies.
Sec. 203. Informing directors of significant deficiencies.
Sec. 204. Certification by chairman and chief compliance officer.

TITLE III—PREVENTING ABUSIVE MUTUAL FUND PRACTICES

Sec. 301. Prevention of fraud; internal compliance and control procedures.
Sec. 302. Ban on joint management of mutual funds and hedge funds.
Sec. 303. Restrictions on short term trading and mandatory redemption fees.
Sec. 304. Elimination of stale prices.
Sec. 305. Formal policies and procedures related to market timing.
Sec. 306. Prevention of late trades.
Sec. 307. Disclosure of insider transactions.

TITLE IV—STRENGTHENING MUTUAL FUND INDUSTRY OVERSIGHT

Sec. 401. Study of Mutual Fund Oversight Board.
Sec. 402. Study of coordination of enforcement efforts.
Sec. 403. Review of Commission resources.
Sec. 404. Commission study and report regulating soft dollar arrangements.
Sec. 405. Report on adequacy of regulatory response to late trading and market timing.
Sec. 406. Study of arbitration claims.

TITLE V—PROMOTING SHAREHOLDER LITERACY

Sec. 501. Financial literacy among mutual fund investors study.

TITLE I—ENHANCING COST, FEE, AND OTHER DISCLOSURES TO SHAREHOLDERS

SEC. 101. IMPROVED TRANSPARENCY OF MUTUAL FUND COSTS.

(a) REGULATION REVISION REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall revise regulations under the Securities Act of 1933, the Securities Exchange Act of 1934, or the Investment Company Act of 1940, or any combination thereof, to require, consistent with the protection of investors and the public interest, improved disclosure with respect to an open-end management investment company, in the quarterly statement or other periodic report to shareholders or other appropriate disclosure document, of—

(A) the actual dollar amount, borne by each shareholder, of the expenses of the company;

(B) the structure of, method used to determine, and the total amount of the compensation of individuals employed by the investment adviser of the company to manage the portfolio of the company, and the ownership interest of such individuals in the securities of the company, including when such individuals have no ownership interest in the company;

(C) whether the chairman of the board of directors of the open-end management investment company or any directors of the investment adviser of such company employed to manage the portfolio of the company do not own any securities of the company;

(D) the estimated total annual dollar amount of fees, costs, expenses, taxes, and any other payments made by the company for any purpose, excluding only pro rata distributions to shareholders, and set forth in a manner that facilitates comparison among different companies;

(E) information concerning the company's policies and practices with respect to the payment of commissions for effecting securities transactions to a member of an exchange, broker, or dealer who—

(i) furnishes advice, either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities or purchasers or sellers of securities;

(ii) furnishes analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy, and the performance of accounts; or

(iii) facilitates the sale and distribution of the company's shares;

(F) information concerning payments by any person other than the company that are intended to facilitate the sale and distribution of the company's shares; and

(G) information concerning discounts on front-end sales loads for which investors may be eligible, including the minimum purchase amounts required for such discounts.

(2) RULES AND REGULATIONS.—

(A) OTHER MANAGEMENT AND SERVICE-RELATED COST.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules or regulations defining ''fees, costs, expenses, taxes, and any other payments made by the company'' for purposes of paragraph (1)(D). Such definition shall include any management fees, transfer agency expenses, custodial fees, shareholder servicing fees, portfolio transaction costs (including commissions, market impact, spread, and opportunity costs, fees charged under a plan adopted pursuant to rule 12b–1 of the rules of the Securities and Exchange Commission (17 C.F.R. 270.12b–1), and other distribution expenses, directors' fees, and registration fees.

(B) MANNER THAT FACILITATES COMPARISON AMONG INVESTMENT COMPANIES.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules or regulations defining ''manner that facilitates comparison amount investment companies'' for purposes of paragraph (1)(D). Such definition shall include definitions of functional categories of fees, costs, expenses, taxes, and other payments disclosed under paragraph (1)(D) that shall not be based on the contract under which or with whom the services are provided, and shall instead be based on the nature of the services provided.

(ii) DISPLAY.—Each category of costs under clause (i) shall be presented in a graphical display (such as a bar or pie chart) that shows each category as a percentage of the total dollar amount under paragraph (1)(D).

(C) CERTIFICATION.—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules or regulations requiring the independent audit of the estimate required under paragraph (1)(D) and certification by the investment adviser and the chairman of the board of directors of the open-end investment company.

(b) APPROPRIATE DISCLOSURE DOCUMENT.—

(1) IN GENERAL.—For purposes of subsection (a)(1), a disclosure shall not be considered to be made in an appropriate disclosure document if the disclosure is made exclusively in a prospectus or statement of additional information, or both such documents.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), the disclosures required by paragraph (1)(B), (C), and (E) of subsection (a) may be considered to be made in an appropriate disclosure document if the disclosure is made exclusively in a prospectus or statement of additional information, or both such documents.

SEC. 102. OBLIGATIONS REGARDING CERTAIN DISTRIBUTION AND SOFT DOLLAR ARRANGEMENTS.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following:

''(g) OBLIGATIONS REGARDING CERTAIN DISTRIBUTION AND SOFT DOLLAR ARRANGEMENTS.—

''(1) REPORTING REQUIREMENTS.—Each investment adviser to a registered investment company shall, not less frequently than annually, submit to the board of directors of the company a report on—

''(A) payments during the reporting period by the adviser (or an affiliated person of the adviser) that were directly or indirectly made for the purpose of promoting the sale of shares of the investment company (referred to in paragraph (2) as a 'revenue sharing arrangement');

''(B) services to the company provided or paid for by a broker or dealer or an affiliated person of the broker or dealer (other than brokerage and research services) in exchange for the direction of brokerage to the broker or dealer (referred to in paragraph (2) as a 'directed brokerage arrangement'); and

''(C) research services obtained by the adviser (or an affiliated person of the adviser) during the reporting period from a broker or dealer, the receipt of which may reasonably be attributed to securities transactions effected on behalf of the company or any other company that is a member of the same group of investment companies (referred to in paragraph (2) as a 'soft dollar arrangement').

''(2) FIDUCIARY DUTY OF BOARD OF DIRECTORS.—The board of directors of a registered investment company shall have a fiduciary duty—

''(A) to review the investment adviser's direction of the company's brokerage transactions, including directed brokerage arrangements and soft dollar arrangements, and that the direction of such brokerage adheres to the Fund's stated policies and is in the best interests of the shareholders of the company; and

''(B) to review any revenue sharing arrangements to ensure compliance with this Act and the rules adopted thereunder, and that such revenue sharing arrangements adheres to the Fund's stated policies and are in the best interests of the shareholders of the company.

''(3) SUMMARIES OF REPORTS IN ANNUAL REPORTS TO SHAREHOLDERS.—In accordance

with regulations prescribed by the Commission under paragraph (4), annual reports to shareholders of a registered investment company shall include a summary of the most recent report submitted to the board of directors under paragraph (1).

''(4) REGULATIONS.—The Commission shall adopt rules and regulations implementing this section, which rules and regulations shall, among other things, prescribe the content of the required reports.

''(5) DEFINITION.—For purposes of this subsection—

''(A) the term 'brokerage and research services' has the same meaning as in section 28(e)(3) of the Securities Exchange Act of 1934; and

''(B) the term 'research services' means the services described in subparagraphs (A) and (B) of such section.''.

SEC. 103. DEFINITION OF NO-LOAD MUTUAL FUND.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule adopted by the Commission or a self-regulatory organization (or both)—

(1) clarify the definition of ''no-load'' as such term is used by investment companies that impose any fee under a plan adopted pursuant to rule 12b–1 of the rules of the Securities and Exchange Commission (17 C.F.R. 270.12b–1); and

(2) require disclosure to prevent investors from being misled by the use of such terminology by the company or its adviser or principal underwriter.

SEC. 104. DISCLOSURE OF INCENTIVE COMPENSATION AND MUTUAL FUND SALES.

(a) IN GENERAL.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

''(11) CONFIRMATION OF TRANSACTIONS FOR MUTUAL FUNDS.—

''(A) IN GENERAL.—Each broker shall disclose in writing to customers that purchase the shares of an open-end company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)—

''(i) the amount of any compensation received or to be received by the broker in connection with such transaction from any sources, including—

''(I) the amount and source of sales fees, payments by persons other than the investment company that are intended to facilitate the sale and distribution of the securities, and commissions for effecting portfolio securities transactions, or other payments, paid to such broker or dealer, or municipal securities broker or dealer, or associated person thereof in connection with such sale;

''(II) any commission or other fees or charges the investor has paid or will or might be subject to, including as a result of purchases or redemptions;

''(III) any conflicts of interest that any associated person of the broker, dealer, or municipal securities broker or dealer of the investor may face due to the receipt of differential compensation in connection with such sale; and

''(IV) information about the estimated amount of any asset-based distribution expenses incurred, or to be incurred, by the investment company in connection with the purchase of securities by the investor; and

''(ii) such other information as the Commission determines appropriate.

''(B) TIMING OF DISCLOSURE.—The disclosure required under subparagraph (A) shall be made to a customer not later than as of the date of the completion of the transaction.

''(C) LIMITATION.—The disclosures required under subparagraph (A) may not be made exclusively in—

''(i) a registration statement or prospectus of an open-end company; or

''(ii) any other filing of an open-end company with the Commission.

''(D) COMMISSION AUTHORITY.—Not later than 1 year after the date of enactment of the Mutual Fund Investor Confidence Restoration Act of 2003, the Commission shall, by rule, establish, to the extent practicable, standards for the disclosures required under subparagraph (A).

''(E) DEFINITION OF OPEN-END COMPANY.—In this paragraph, the term 'open-end company' has the same meaning as in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5).

''(F) DEFINITIONS OF DIFFERENTIAL COMPENSATION AND MUNICIPAL FUND SECURITY.—

''(i) DIFFERENTIAL COMPENSATION.—In this paragraph, an associated person of a broker or dealer shall be considered to receive differential compensation if such person receives any increased or additional remuneration, in whatever form—

''(I) for sales of the securities of an investment company or municipal fund security that is affiliated with, or otherwise specifically designated by, such broker or dealer or municipal securities broker or dealer, as compared with the remuneration for sales of securities of an investment company or municipal fund security offered by such broker or dealer or municipal securities broker or dealer that are not so affiliated or designated; or

''(II) for the sale of any class of securities of an investment company or municipal fund security as compared with the remuneration for the sale of a class of securities of such investment company or municipal fund security (offered by such broker or dealer or municipal securities broker or dealer) that charges a sales load (as defined in section 2(a)(35) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(35)) only at the time of such a sale.

''(ii) MUNICIPAL FUND SECURITY.—In this paragraph, a municipal fund security is any municipal security issued by an issuer that, but for the application of section 2(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(b)), would constitute an investment company within the meaning of section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).''.

TITLE II—MUTUAL FUND GOVERNANCE

SEC. 201. INDEPENDENT MUTUAL FUND BOARDS.

(a) DIRECTOR INDEPENDENCE.—

(1) IN GENERAL.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(a)) is amended—

(A) by striking ''more than 60 per centum'' and inserting ''more than 25 percent''; and

(B) by striking the period at the end and inserting '', and such company shall not have as a member of its board of directors any person—

''(1) who has served without being approved or elected by the shareholders of such registered investment company at least once every 5 years; and

''(2) unless such director is an interested person or has been found, on an annual basis, by a majority of the directors who are not interested persons, after reasonable inquiry by such directors, not to have any material business or familial relationship with the registered investment company, a significant service provider to the company, or any entity controlling, controlled by, or under common control with such service provider, that is likely to impair the independence of the director.''.

(2) CHAIRMAN; FINANCIAL EXPERT; INDEPENDENT COMMITTEE.—Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a–10) is amended by adding at the end the following:

''(i) CHAIRMAN.—No registered investment company shall have as chairman of its board of directors an interested person of such registered company.

''(j) INDEPENDENT COMMITTEE.—

''(1) IN GENERAL.—The members of the board of directors of a registered investment company who are not interested persons of such registered investment company shall establish a committee comprised solely of such members, which committee shall be responsible for—

''(A) selecting persons to be nominated for election to the board of directors; and

''(B) adopting qualification standards for the nomination of directors.

''(2) DISCLOSURE.—The standards developed under paragraph (1)(B) shall be disclosed in the registration statement of the registered investment company.

''(k) FINANCIAL EXPERT.—

''(1) IN GENERAL.—Each registered investment company shall have as a member of its board of directors not less than 1 member who is a financial expert, as such term is defined by the Commission.

''(2) RULES DEFINING FINANCIAL EXPERT.—In defining the term 'financial expert' for purposes of paragraph (1), the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or principal financial officer, comptroller, or principal accounting officer of a registered investment company, or from a position involving the performance of similar functions—

''(A) an understanding of generally accepted accounting principles and financial statements; and

''(B) experience in the preparation or auditing of financial statements of general comparable registered investment companies.

''(3) DEADLINE FOR RULEMAKING.—Not later than 180 days after the date of enactment of the Mutual Fund Investor Confidence Restoration Act of 2003, the Commission shall issue rules under paragraph (2).''.

(c) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)) is amended—

(1) in subparagraph (A)—

(A) in clause (iv), by striking ''two'' and inserting ''5''; and

(B) by striking clause (vii) and inserting the following:

''(vii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of an investment adviser or principal underwriter to such registered investment company, or of any entity controlling, controlled by, or under common control with such investment adviser or principal underwriter;

''(viii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of any entity that has within the preceding 5 fiscal years acted as a significant service provider to such registered investment company, or of any entity controlling, controlled by, or under the common control with such service provider; or

''(ix) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business relationship with the investment company or an affiliated person of such investment company;

''(II) a close familial relationship with any natural person who is an affiliated person of such investment company; or

''(III) any other reason determined by the Commission.''; and

(2) in subparagraph (B)—

(A) in clause (iv), by striking ''two'' and inserting ''5''; and

(B) by striking clause (vii) and inserting the following:

''(vii) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business relationship with such investment adviser or principal underwriter or affiliated person of such investment adviser or principal underwriter;

''(II) a close familial relationship with any natural person who is an affiliated person of such investment adviser or principal underwriter; or

''(III) any other reason as determined by the Commission.''.

(d) DEFINITION OF SIGNIFICANT SERVICE PROVIDER.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding at the end the following:

''(53) SIGNIFICANT SERVICE PROVIDER.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Mutual Fund Investor Confidence Restoration Act of 2003, the Securities and Exchange Commission shall issue final rules defining the term 'significant service provider'.

''(B) REQUIREMENTS.—The definition developed under paragraph (1) shall include, at a minimum, the investment adviser and principal underwriter of a registered investment company for purposes of paragraph (19).''.

SEC. 202. AUDIT COMMITTEE REQUIREMENTS FOR INVESTMENT COMPANIES.

(a) AMENDMENTS.—Section 32 of the Investment Company Act of 1940 (15 U.S.C. 80a–31) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) such accountant shall have been selected at a meeting held within 30 days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of the members of the audit committee of such registered company;

''(2) such selection shall have been submitted for ratification or rejection at the next succeeding annual meeting of stockholders if such meeting be held, except that any vacancy occurring between annual meetings, due to the death or resignation of the accountant, may be filled by the vote of a majority of the members of the audit committee of such registered company, cast in person at a meeting called for the purpose of voting on such action;''; and

(B) by adding at the end the following new sentence: ''The Commission, by rule, regulation, or order, may exempt a registered management company or registered face-amount certificate company subject to this subsection from the requirement in paragraph (1) that the votes by the members of the audit committee be cast at a meeting in person when such a requirement is impracticable, subject to such conditions as the Commission may require.''; and

(2) by adding at the end the following:

''(d) AUDIT COMMITTEE REQUIREMENTS.—

''(1) REQUIREMENTS AS PREREQUISITE TO FILING FINANCIAL STATEMENTS.—Any registered management company or registered face-amount certificate company that files with the Commission any financial statement signed or certified by an independent public accountant shall comply with the requirements of paragraphs (2) through (6) of this subsection and any rule or regulation of the Commission issued thereunder.

''(2) RESPONSIBILITY RELATING TO INDEPENDENT PUBLIC ACCOUNTANTS.—The audit committee of the registered company, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any independent public accountant employed by such registered company (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing the audit report or related work, and each such independent public accountant shall report directly to the audit committee.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the audit committee of the registered company shall be a member of the board of directors of the company, and shall otherwise be independent.

''(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of a registered company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

''(i) accept any consulting, advisory, or other compensatory fee from the registered company or the investment adviser or principal underwriter of the registered company; or

''(ii) be an 'interested person' of the registered company, as such term is defined in section 2(a)(19).

''(4) COMPLAINTS.—The audit committee of the registered company shall establish procedures for—

''(A) the receipt, retention, and treatment of complaints received by the registered company regarding accounting, internal accounting controls, or auditing matters; and

''(B) the confidential, anonymous submission by employees of the registered company and its investment adviser or principal underwriter of concerns regarding questionable accounting or auditing matters.

''(5) AUTHORITY TO ENGAGE ADVISERS.—The audit committee of the registered company shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

''(6) FUNDING.—The registered company shall provide appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

''(A) to the independent public accountant employed by the registered company for the purpose of rendering or issuing the audit report; and

''(B) to any advisers employed by the audit committee under paragraph (5).

''(7) AUDIT COMMITTEE.—For purposes of this subsection, the term 'audit committee' means—

''(A) a committee (or equivalent body) established by and among the board of directors of a registered investment company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; and

''(B) if no such committee exists with respect to a registered investment company, the entire board of directors of the company.''.

(b) CONFORMING AMENDMENT.—Section 10A(m) (15 U.S.C. 78j–1(m)) of the Securities Exchange Act of 1934 is amended by adding at the end the following:

''(7) EXEMPTION FOR INVESTMENT COMPANIES.—Effective 1 year after the date of enactment of the Mutual Fund Investor Confidence Restoration Act of 2003, for purposes of this subsection, the term 'issuer' shall not include any investment company that is registered under section 8 of the Investment Company Act of 1940.''.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue final regulations to carry out section 32(d) of the Investment Company Act of 1940, as added by subsection (a) of this section.

(2) INCENTIVES.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule, establish—

(A) a program of incentives to encourage the filing of meritorious complaints under section 32(d)(4)(A) of the Investment Company Act of 1940; and

(B) appropriate penalties for the willful filing of materially false complaints under such section.

SEC. 203. INFORMING DIRECTORS OF SIGNIFICANT DEFICIENCIES.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a–41) is amended by adding at the end the following:

''(f) INFORMING DIRECTORS OF SIGNIFICANT DEFICIENCIES.—

''(1) IN GENERAL.—If the report of an inspection by the Commission of a registered investment company identifies significant deficiencies in the operations of such company, or of its investment adviser or principal underwriter, the company shall provide such report to the directors of such company.

''(2) DISCLOSURE OF DEFICIENCIES.—The Commission shall, on an annual basis, review all inspection reports of registered investment companies and publicly disclose the 10 most common deficiencies cited in those reports.''.

SEC. 204. CERTIFICATION BY CHAIRMAN AND CHIEF COMPLIANCE OFFICER.

(a) IN GENERAL.—Subsection (j) of section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a–17(j)), as amended by section 301 of this Act, is amended by adding at the end the following:

''(4) CERTIFICATION BY CHAIRMAN.—The rules and regulations established under paragraph (1) shall require the chairman of the board of directors of each registered open-end investment company to certify, in the periodic report to shareholders, or other appropriate disclosure document, that—

''(A) procedures are in place for verifying that the determination of current net asset value of any redeemable security issued by the company used in computing periodically the current price for the purpose of purchase, redemption, and sale complies with the requirements of the Investment Company Act of 1940 and the rules and regulations thereunder, and the company is in compliance with such procedures;

''(B) procedures are in place for the oversight of the flow of funds into and out of the securities of the company, and the company is in compliance with such procedures;

''(C) procedures are in place to ensure that investors are receiving any applicable discounts on front-end sales loads that are disclosed in the company's prospectus;

''(D) procedures are in place to ensure that, if the company's shares are offered as different classes of shares, such classes are designed in the interests of investors, and could reasonably be an appropriate investment option for an investor;

''(E) procedures are in place to ensure that information about the company's portfolio securities is not disclosed in violation of the securities laws or the company's code of ethics;

''(F) the members of the board of directors who are not interested persons of the company have reviewed and approved the compensation of the company's portfolio manager in connection with their consideration of the investment advisory contract under section 15(c);

''(G) the company has established and enforces a code of ethics as required by paragraph (2) of this subsection;

''(H) the company is in compliance with the additional requirements of paragraph (3) of this subsection;

''(I) the report submitted to the board of directors under section 15(g)(1) is complete and accurate; and

''(J) the board of directors has fulfilled its obligations under section 15(g)(2).''

''(5) CERTIFICATION BY CHIEF COMPLIANCE OFFICER.—The rules and regulations established under paragraph (1) shall require the chief compliance officer of each registered open-end investment company to certify, on an annual basis, that—

''(A) appropriate internal controls are in place for the review required under subparagraphs (A) through (H) of paragraph (4); and

''(B) such internal controls have been reviewed, and determined to reasonably achieve their stated purpose, by the chief compliance officer.

''(6) REVIEW OF ADVISORY CONTRACTS.—The rules and regulations established under paragraph (1) shall require that the chairman of the board of directors and the chief compliance officer of a registered open-end investment company certify, on an annual basis, that any advisory contract entered into by the company and associated management fees have been negotiated and are in the best interests of the company.''.

(b) DEADLINE FOR RULES.—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe—

(1) rules to implement subsection (a); and

(2) minimum standards for compliance with the certification requirements of paragraphs (4) and (5) of section 17(j) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(j)).

TITLE III—PREVENTING ABUSIVE MUTUAL FUND PRACTICES

SEC. 301. PREVENTION OF FRAUD; INTERNAL COMPLIANCE AND CONTROL PROCEDURES.

(a) AMENDMENT.—Subsection (j) of section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a–17(j)) is amended to read as follows:

''(j) DETECTION AND PREVENTION OF FRAUD.—

''(1) COMMISSION RULES TO PROHIBIT FRAUD, DECEPTION, AND MANIPULATION.—It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company, or any security issued by such registered investment company or by an affiliated registered investment company, in contravention of such rules and regulations as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative.

''(2) CODES OF ETHICS.—The rules and regulations established under paragraph (1) shall include requirements for the adoption of codes of ethics by registered investment companies and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business. Such rules and regulations shall require each such registered investment company to disclose such codes of ethics (and any changes therein) in the periodic report to shareholders of such company, and to disclose such code of ethics and any waivers and material violations thereof on a readily accessible electronic public information facility of such company and in such additional form and manner as the Commission shall require by rule or regulation.

''(3) ADDITIONAL COMPLIANCE PROCEDURES.—The rules and regulations established under paragraph (1) shall—

''(A) require each investment company and investment adviser registered with the Commission to adopt and implement policies and procedures reasonably designed to prevent violation of the Securities Act of 1933 (15 U.S.C. 78a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), subchapter II of chapter 53 of title 31, United States Code, chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

''(B) require each such company and adviser to review such policies and procedures annually for their adequacy and the effectiveness of their implementation;

''(C) require each such company to appoint a chief compliance officer to be responsible for overseeing such policies and procedures, ensuring that the practices of the company adhere to those policies and procedures, and promote the interest of shareholders—

''(i) whose compensation shall be approved by the members of the board of directors of the company who are not interested persons of such company;

''(ii) who shall report directly to the members of the board of directors of the company who are not interested persons of such company, privately as such members request, but no less frequently than annually; and

''(iii) whose report to such members shall include any violations or waivers of, and any other significant issues arising under, such policies and procedures; and

''(D) require each such company to establish policies and procedures reasonably designed to protect any officer, director, employee, contractor, subcontractor, or agent of such company from retaliation, including discharge, demotion, suspension, harassment, or any other manner of discrimination in the terms and conditions of employment, because of any lawful act done by such officer, director, employee, contractor, subcontractor, or agent to provide information, cause information to be provided, or otherwise assist in an investigation that relates to any conduct which such officer, director, employee, contractor, subcontractor, or agent reasonably believes constitutes a violation of the securities laws or the code of ethics of such investment company.''.

(b) DEADLINE FOR RULES.—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe rules to implement subsection (a).

SEC. 302. BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.

(a) AMENDMENT.—Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is further amended by adding at the end the following:

''(h) BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.—

''(1) PROHIBITION OF JOINT MANAGEMENT.—It shall be unlawful for any individual to serve or act as the portfolio manager or investment adviser of a registered open-end investment company if such individual also serves or acts as the portfolio manager or investment adviser of an investment company that is not registered, or of such other categories of companies as the Commission shall prescribe by rule in order to prohibit conflicts of interest, such as conflicts in the selection of the portfolio securities.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), the Commission may, by rule, regulation, or order, permit joint management by a portfolio manager in exceptional circumstances when necessary to protect the interest of investors, provided that such rule, regulation, or order requires—

''(A) enhanced disclosure by the registered open-end investment company to investors of any conflicts of interest raised by such joint management; and

''(B) fair and equitable policies and procedures for the allocation of securities to the portfolios of the jointly managed companies, and certification by the members of the board of directors who are not interested persons of such registered open-end investment company, in the periodic report to shareholders, or other appropriate disclosure document, that such policies and procedures of such company are fair and equitable.

''(3) DEFINITION.—For purposes of this subsection, the term 'portfolio manager' means the individual or individuals who are designated as responsible for decision-making in connection with the securities purchased and sold on behalf of a registered open-end investment company, but shall not include individuals who participate only in making research recommendations or executing transactions on behalf of such company.''.

(b) DEADLINE FOR RULES.—The Securities and Exchange Commission shall prescribe rules to implement the amendment made by subsection (a) of this section within 90 days after the date of enactment of this Act.

SEC. 303. RESTRICTIONS ON SHORT TERM TRADING AND MANDATORY REDEMPTION FEES.

(a) SHORT TERM TRADING PROHIBITED.—Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a–17) is amended by adding at the end the following:

''(k) SHORT TERM TRADING PROHIBITED.—It shall be unlawful for any officer, director, partner, or employee of a registered investment company, any affiliated person, investment adviser, or principal underwriter of such company, or any officer, director, partner, or employee of such an affiliated person, investment adviser, or principal underwriter, to engage in short-term transactions, as such term is defined by the Commission by rule, in any securities of which such company, or any affiliate of such company, is the issuer, except that this subsection shall not prohibit transactions in money market funds, other funds the investment policy of which expressly permits short-term transactions, or such other categories of registered investment companies as the Commission shall specify by rule.''.

(b) MANDATORY REDEMPTION FEES.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule, require that any investment company that does not allow for market timing practices to charge a redemption fee upon the short-term redemption of any securities of such company.

(c) DEADLINE FOR RULES.—Not later than 180 days after the date of enactment of this

Act, the Securities and Exchange Commission shall prescribe rules to implement the amendment made by subsection (a) of this section.

SEC. 304. ELIMINATION OF STALE PRICES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe, by rule or regulation, standards concerning the obligation of registered open-end investment companies under the Investment Company Act of 1940 to apply and use fair value methods of determination of net asset value when market quotations are unavailable or do not accurately reflect the fair market value of the companies' portfolio securities, in order to prevent dilution of the interests of long-term investors or as necessary in the other interests of investors. Such rule or regulation shall identify, in addition to significant events, the conditions or circumstances from which such obligation will arise, such as the need to value securities traded on foreign exchanges, and the methods by which fair value methods shall be applied in such events, conditions, and circumstances.

(b) FORMAL POLICIES AND PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule or regulation—

(A) require that each registered open-end investment company and registered investment advisor establish formal policies with respect to compliance with the regulations established under subsection (a);

(B) require such policies to be publicly disclosed to shareholders;

(C) require the adoption of internal procedures to ensure compliance with such policies;

(D) require that such policies be subject to ongoing review by the company or investment adviser; and

(E) require, on an annual basis, a certification by the chief executive officer of the company or investment adviser that such policies are being adhered to.

(2) CHANGES TO POLICIES.—Any policies adopted by a registered open-end company or registered investment adviser under paragraph (1) shall not be altered without the prior approval of a majority of the shareholders of such company or adviser.

SEC. 305. FORMAL POLICIES AND PROCEDURES RELATED TO MARKET TIMING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule—

(1) require that each registered open-end investment company and registered investment advisor establish formal policies with respect to whether it permits market timing and short term trading, and under what circumstances such practices will be permitted;

(2) require such policies to be publicly disclosed in any prospectus delivered by the company or investment advisor;

(3) require the adoption of internal procedures reasonably designed to ensure compliance with such policies;

(4) require that such policies be subject to ongoing review by the company or investment advisor; and

(5) require, on an annual basis, a certification by the chief executive officer of the investment adviser, and chairman of the board of directors and chief compliance officer of the company that such policies are being adhered too by the investment adviser or the company.

SEC. 306. PREVENTION OF LATE TRADES.

(a) ADDITIONAL RULES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules to prevent transactions in the securities of any registered open-end investment company in violation of section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a–22), including after-hours trades that are executed at a price based on a net asset value that was determined as of a time prior to the actual execution of the transaction.

(b) TRADES COLLECTED BY INTERMEDIARIES.—

(1) IN GENERAL.—The rules established under subsection (a) shall permit execution of after-hours trades that are provided to the registered open-end investment company by a broker-dealer, retirement plan administrator, insurance company, or other intermediary, after the time as of which such net asset value was determined, if the late trading and detection procedures and policies of such intermediary are subject to inspection by the Commission (in this subsection, a ''permitted intermediary'').

(2) RULES.—The Commission, by rule, shall—

(A) require each permitted intermediary to certify that it has policies and procedures in place to prevent and detect late-trades, and that such policies have been adhered too by the permitted intermediary;

(B) require each permitted intermediary to submit an independent annual audit verifying that its policies and procedures do not permit the acceptance of late order trading; and

(C) provide that any intermediary that is not a permitted intermediary shall be required to submit all transactions to the open-end investment company before the determination of the related net asset value.

SEC. 307. DISCLOSURE OF INSIDER TRANSACTIONS.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule, require—

(1) that any senior executive officer of an open-end management investment company publicly disclose, prior to the actual time of purchase, any intended sale or purchase of securities of an open-end management investment company that employs the same investment adviser as the company with whom such senior executive officer is employed; and

(2) that any such securities purchased be held by the senior executive officer for not less than 6 months.

TITLE IV—STRENGTHENING MUTUAL FUND INDUSTRY OVERSIGHT

SEC. 401. STUDY OF MUTUAL FUND OVERSIGHT BOARD.

(a) IN GENERAL.—The General Accounting Office shall conduct a study to determine the feasibility of, and assess what, if any, benefits to shareholders, mutual fund governance and mutual fund supervision would result from establishing a Mutual Fund Oversight Board that would—

(1) have inspection, examination, and enforcement authority over mutual fund boards of directors;

(2) be funded by assessments against mutual fund assets or management fees;

(3) have members selected by Commission; and

(4) have rulemaking authority.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall submit a report on the study required under paragraph (1) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 402. STUDY OF COORDINATION OF ENFORCEMENT EFFORTS.

(a) IN GENERAL.—The General Accounting Office shall conduct a study of the coordination of enforcement efforts related to allegations of misconduct by open-end management companies between the headquarters of the Securities and Exchange Commission, the regional offices of the Commission, and appropriate State regulatory and law enforcement entities, such as State attorney generals and the North American Securities Administrators Association.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall submit a report on the study required under subsection (a) to Congress.

SEC. 403. REVIEW OF COMMISSION RESOURCES.

(a) IN GENERAL.—The Securities and Exchange Commission shall conduct a study on the allocation and adequacy of the supervision and enforcement resources of the Commission dedicated to the oversight of open-end management companies.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 404. COMMISSION STUDY AND REPORT REGULATING SOFT DOLLAR ARRANGEMENTS.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Commission shall conduct a study of the use of soft dollar arrangements by investment advisers as contemplated by section 28(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)).

(2) AREAS OF CONSIDERATION.—The study required by this section shall examine—

(A) the trends in the average amounts of soft dollar commissions paid by investment advisers and investment companies in the past 3 years;

(B) the types of services provided through soft dollar arrangements;

(C) the benefits and disadvantages of the use of soft dollars for investors, including the extent to which use of soft dollar arrangements affects the ability of mutual fund investors to evaluate and compare the expenses of different mutual funds;

(D) the potential or actual conflicts of interest (or both potential and actual conflicts) created by soft dollar arrangements, including whether certain potential conflicts are being managed effectively by other laws and regulations specifically addressing those situations, the role of the board of directors in managing these potential or actual (or both) conflicts, and the effectiveness of the board in this capacity;

(E) the transparency of such soft dollar arrangements to investment company shareholders and investment advisory clients of investment advisers, the extent to which enhanced disclosure is necessary or appropriate to enable investors to better understand the impact of these arrangements, and an assessment of whether the cost of any enhanced disclosure or other regulatory change would result in benefits to the investor; and

(F) whether such section 28(e) should be modified, and whether other regulatory or legislative changes should be considered and adopted to benefit investors.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required by subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 405. REPORT ON ADEQUACY OF REGULATORY RESPONSE TO LATE TRADING AND MARKET TIMING.

(a) REPORT REQUIRED.—Not later than 180 days after the date enactment of this Act, the Securities and Exchange Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on market timing and late trading of mutual funds.

(b) REQUIRED CONTENTS OF REPORT.—The report required by this section shall include the following:

(1) The economic harm of market timing and late trading of mutual fund shares on long-term mutual fund shareholders.

(2) The findings by the Commission's Office of Compliance, Inspections and Examinations, and the actions taken by the Commission's Division of Enforcement, regarding—

(A) illegal late trading practices;

(B) illegal market timing practices; and

(C) market timing practices that are not in violation of prospectus disclosures.

(3) When the Commission became aware that the use of market timing practices was harming long-term shareholders, and the circumstances surrounding the Commission's discovery of that activity.

(4) The steps the Commission has taken since becoming aware of market timing practices to protect long-term mutual fund investors.

(5) Any additional legislative or regulatory action that is necessary to protect long-term mutual fund shareholders against the detrimental effects of late trading and market timing practices.

SEC. 406. STUDY OF ARBITRATION CLAIMS.

(a) STUDY REQUIRED.—The Securities and Exchange Commission shall conduct a study of the increased rate of arbitration claims and decisions involving mutual funds since 1995 for the purposes of identifying trends in arbitration claim rates and, if applicable, the causes of such increased rates and the means to avert such causes.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required by subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TITLE V—PROMOTING SHAREHOLDER LITERACY

SEC. 501. FINANCIAL LITERACY AMONG MUTUAL FUND INVESTORS STUDY.

(a) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to identify—

(1) the existing level of financial literacy among investors that purchase shares of open-end companies, as such term is defined under section 5 of the Investment Company Act of 1940, that are registered under section 8 of such Act;

(2) the most useful and understandable relevant information that investors need to make sound financial decisions prior to purchasing such shares;

(3) methods to increase the transparency of expenses and potential conflicts of interest in transactions involving the shares of open-end companies;

(4) the existing private and public efforts to educate investors; and

(5) a strategy to increase the financial literacy of investors that results in a positive change in investor behavior.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

By Mrs. BOXER:

S. 1972. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for small employer-based health insurance coverage in States in which such coverage is mandated, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, today, I am introducing the ''Small Business State Mandated Health Insurance Assistance Act.''

The legislation would provide a tax credit to small businesses in states where the law mandates that they provide health insurance to their employees. The credit would be for 50 percent of the amount the employer spends providing health insurance for his or her employees.

In California 6.4 million people are uninsured. That's more than 18 percent of the state. To deal with the issue, the state legislature recently passed a law mandating that employers provide their workers with health insurance.

Many smaller businesses have told me that they do not object to the law itself, but that they will have a hard time financially complying with the mandate—especially in these tough economic times. Furthermore, there is concern that neighboring States without such a mandate will recruit our small businesses entrepreneurs to move to their states where they would not have to provide insurance for their workers.

While businesses can currently deduct from federal taxes, as costs of doing businesses, the costs of the health insurance provided to their employees, this assistance is simply not large enough to provide the help that small businesses truly need. That is why I am introducing this bill today. I encourage my colleagues to join me in this effort.

By Mr. DASCHLE:

S. 1974. A bill to make improvements to the Medicare Prescriptions Drug, Improvement, and Modernization Act of 2003; to the Committee on Finance.

Mr. DASCHLE. Mr. President, by adopting the Medicare Conference Report today, the Senate has done great harm to one of our most successful and important social programs. As I have said over the past week, I believe that this will not be the end of the issue. I believe this is just the end of the first chapter.

And I predict that the call from beneficiaries and future beneficiaries to repair this damage will be so loud that Congress will be compelled to act. We are hearing already from seniors in South Dakota and all across the country. For that reason, I am introducing today the Medicare Preservation and Drug Price Fairness Act. It is only a first step in addressing some of the many problems in the Republican Medicare bill—but it is an important step.

This summer, the Senate passed a prescription drug bill. It was not perfect. But it was a start at providing the most necessary reform Medicare needs—covering prescription drugs for the program's 41 million beneficiaries. And I reluctantly supported it.

What came back from the Conference was no longer a bill to add a drug benefit to Medicare. It was a vehicle for Republicans to harm Medicare under the guise of ''reforms.''

I am introducing a bill today to address some of the main weaknesses in the Conference bill. It will not be the last of these bills introduced. And it does not repair all of the damage done to Medicare by the Conference bill.

The bill I introduce today is simply an initial effort to carve out some of the more egregious provisions of the Conference bill. It does not address the critical issues of the 2.7 million retirees who will lose their good coverage or the 6 million of the lowest-income seniors who will be worse off than they are now. It does not address the inadequacy of the drug benefit itself. We will come back to those issues in the near future.

The Medicare Preservation and Drug Price Fairness Act is a start toward righting the wrongs done to Medicare today. It repeals the language in the Republican bill that prohibits Medicare from negotiating lower prices on behalf of beneficiaries. It repeals the highly controversial ''premium support'' demonstration projects that would force beneficiaries who do not want to join an HMO to pay higher premiums. It ensures that the guaranteed Medicare fallback is triggered whenever there are not two stand-alone drug plans available in an area so that seniors are not forced to join an HMO if the one that is available to them is priced too high. It repeals the $12 billion slush fund giveaway to HMOs and the $6 billion tax shelters for the wealthy and healthy. And, unlike the Republican bill, it allows Americans to obtain US-made drugs at lower prices safely from other industrialized countries.

I noted earlier today when we voted on the Conference Report that there were few, if any, seniors looking on expectantly from the gallery. And in fact, we have heard from them in large numbers that they do not support the Conference bill. In contrast, the lobbies were full of well-tailored lobbyists—and the big drug companies and the HMOs are the ones celebrating the passage of the Conference bill. The Republicans got it backwards. The Medicare Preservation and Drug Price Fairness Act is a first step toward the bill Congress should have passed—a bill that truly benefits America's seniors.

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

S. 1974

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Preservation and Drug Price Fairness Act''.

SEC. 2. AUTHORITY TO NEGOTIATE PRICES.

Subsection (i) of section 1860D–11, as added by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is repealed.

SEC. 3. REPEAL OF COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM.

Subtitle E of title II of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and the amendments made by such subtitle, are repealed.

SEC. 4. PHARMACEUTICAL MARKET ACCESS.

(a) IMPORTATION OF PRESCRIPTION DRUGS.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary'' and inserting ''Not later than 180 days after the date of the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the Secretary''; and

(B) by striking ''pharmacists and wholesalers'' and inserting ''pharmacists, wholesalers, and qualifying individuals'';

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

''(1) require that each covered product imported pursuant to such subsection complies with sections 501, 502, and 505, and other applicable requirements of this Act; and'';

(B) in paragraph (2), by striking '', including subsection (d); and'' and inserting a period; and

(C) by striking paragraph (3);

(3) in subsection (c), by inserting ''by pharmacists and wholesalers (but not qualifying individuals)'' after ''importation of covered products'';

(4) in subsection (d)—

(A) by striking paragraphs (3) and (10);

(B) in paragraph (5), by striking '', including the professional license number of the importer, if any'';

(C) in paragraph (6)—

(i) in subparagraph (C), by inserting ''(if required under subsection (e))'' before the period;

(ii) in subparagraph (D), by inserting ''(if required under subsection (e))'' before the period; and

(iii) in subparagraph (E), by striking ''labeling'';

(D) in paragraph (7)—

(i) in subparagraph (A), by inserting ''(if required under subsection (e))'' before the period; and

(ii) by amending subparagraph (B) to read as follows:

''(B) Certification from the importer or manufacturer of such product that the product meets all requirements of this Act.''; and

(E) by redesignating paragraphs (4) through (9) as paragraphs (3) through (8), respectively;

(5) by amending subsection (e) to read as follows:

''(e) TESTING.—

''(1) IN GENERAL.—Subject to paragraph (2), regulations under subsection (a) shall require that testing referred to in paragraphs (5) through (7) of subsection (d) be conducted by the importer of the covered product, unless the covered product is a prescription drug subject to the requirements of section 505B for counterfeit-resistant technologies.

''(2) EXCEPTION.—The testing requirements of paragraphs (5) through (7) of subsection (d) shall not apply to an importer unless the importer is a wholesaler.'';

(6) in subsection (f), by striking ''or designated by the Secretary, subject to such limitations as the Secretary determines to be appropriate to protect the public health'';

(7) in subsection (g)—

(A) by striking ''counterfeit or''; and

(B) by striking ''and the Secretary determines that the public is adequately protected from counterfeit and violative covered products being imported pursuant to subsection (a)'';

(8) in subsection (i)(1)—

(A) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The Secretary shall conduct, or contract with an entity to conduct, a study on the imports permitted pursuant to subsection (a), including consideration of the information received under subsection (d). In conducting such study, the Secretary or entity shall evaluate the compliance of importers with regulations under subsection (a), and the incidence of shipments pursuant to such subsection, if any, that have been determined to be misbranded or adulterated, and determine how such compliance contrasts with the incidence of shipments of prescription drugs transported within the United States that have been determined to be misbranded or adulterated.''; and

(B) in subparagraph (B), by striking ''Not later than 2 years after the effective date of final regulations under subsection (a),'' and inserting ''Not later than 18 months after the date of the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003,'';

(9) in subsection (k)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) The term 'qualifying individual' means an individual who is not a pharmacist or a wholesaler. ''; and

(10) by striking subsections (l) and (m).

(b) USE OF COUNTERFEIT-RESISTANT TECHNOLOGIES TO PREVENT COUNTERFEITING.—

(1) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352; deeming drugs and devices to be misbranded) is amended by adding at the end the following:

''(w) If it is a drug subject to section 503(b), unless the packaging of such drug complies with the requirements of section 505B for counterfeit-resistant technologies.''.

(2) REQUIREMENTS.—Title V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

''SEC. 505B. COUNTERFEIT-RESISTANT TECHNOLOGIES.

''(a) INCORPORATION OF COUNTERFEIT-RESISTANT TECHNOLOGIES INTO PRESCRIPTION DRUG PACKAGING.—The Secretary shall require that the packaging of any drug subject to section 503(b) incorporate—

''(1) overt optically variable counterfeit-resistant technologies that are described in subsection (b) and comply with the standards of subsection (c); or

''(2) technologies that have an equivalent function of security, as determined by the Secretary.

''(b) ELIGIBLE TECHNOLOGIES.—Technologies described in this subsection—

''(1) shall be visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

''(2) shall be similar to that used by the Bureau of Engraving and Printing to secure United States currency;

''(3) shall be manufactured and distributed in a highly secure, tightly controlled environment; and

''(4) should incorporate additional layers of non-visible covert security features up to and including forensic capability.

''(c) STANDARDS FOR PACKAGING.—

''(1) MULTIPLE ELEMENTS.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to section 503(b), manufacturers of the drugs shall incorporate the technologies described in subsection (b) into multiple elements of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

''(2) LABELING OF SHIPPING CONTAINER.—Shipments of drugs described in subsection (a) shall include a label on the shipping container that incorporates the technologies described in subsection (b), so that officials inspecting the packages will be able to determine the authenticity of the shipment. Chain of custody procedures shall apply to such labels and shall include procedures applicable to contractual agreements for the use and distribution of the labels, methods to audit the use of the labels, and database access for the relevant governmental agencies for audit or verification of the use and distribution of the labels.''.

(c) REPEAL.—Subtitle C of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and the amendments made by such subtitle, are repealed.

SEC. 5. ASSURING ACCESS TO COVERAGE.

Paragraph (3) of section 1860D–3(a), as added by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended to read as follows:

''(3) QUALIFYING PLAN DEFINED.—For purposes of this section, the term 'qualifying plan' means a prescription drug plan offered by a PDP sponsor.''.

SEC. 6. REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.

(a) IN GENERAL.—Section 1858 of the Social Security Act, as added by section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively; and

(3) in subsection (e), as so redesignated, by striking ''subject to subsection (e),''.

(b) CONFORMING AMENDMENT.—Section 1851(i)(2) of the Social Security Act (42 U.S.C. 1395w–21(i)(2)), as amended by section 221(d)(5) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended by striking''1858(h)'' and inserting ''1858(g)''.

SEC. 7. REPEAL OF HEALTH SAVINGS ACCOUNTS.

Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and the amendments made by such section, are repealed.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(b) APPLICATION OF LAWS.—If any amendment to any provision of any Act is repealed by this Act, such provision shall be applied and administered as if the amendment had never been enacted.

By Mr. DODD (for himself and Mr. MCCAIN):

S. 1975. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for securities-related fines, penalties, and other amounts, and to provide that revenues resulting from such denial be transferred to Fair Funds for the relief of victims; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today to introduce important legislation designed to ensure that corporate wrongdoers are held fully responsible for their illegal actions and that investors are given fair compensation for such actions.

As most of my colleagues are aware, in April of this year, 10 large securities firms agreed to pay a total of $1.4 billion in fines and payments for giving their investment clients tainted and misleading advice—advice which cost those clients hundreds of millions of dollars.

The ''global settlement'' was initially lauded as a historic victory against corporate wrongdoers. And indeed, thanks to the efforts of Federal and State securities regulators, and New York State Attorney General Eliot Spitzer, the settlement has the potential to fundamentally change pervasive business practices that were so harmful to so many.

But the settlement's impact could be significantly weakened by a loophole that would allow the firms to avoid paying taxes on nearly $900 million of the penalties—by deducting them as standard business costs.

Only one-third of the total settlement is specifically prohibited by law from being tax-deductible. If the firms are able to write off the remainder of the costs as business expenses, then the total price tag of the settlement will be much smaller than advertised.

However, there is much more at stake. America's financial markets are the most vibrant in the world for one reason—investor confidence. The securities laws of the 1930's built the foundation for the deepest, most liquid markets in the world. They have created a public trust in our markets among investors worldwide who know that we have a zero-tolerance policy towards corporate malfeasance.

If we allow firms to write off fines as the cost of doing business, then we will perpetuate the idea that fraud is no longer a crime, but an accepted business practice. And we will compromise the very principles on which our markets are based—credibility, honesty, and responsibility.

We need to send the strongest possible message to corporate America that defrauding people of their life savings can never, under any circumstances, be considered ''business as usual.'' Our tax code should not reward these practices—it should discourage and punish them, to the greatest extent possible. Otherwise, the victims of corporate misconduct will include not only individual investors, but the credibility of our capital markets. And if our markets suffer, so will America's place in the world economy.

That is why I rise today to introduce my legislation. This legislation takes two important steps towards fixing this problem. First, it expressly prohibits any tax deduction on payments for violations of securities laws, including those required by the global settlement. Second, it directs all of the tax revenues gained from those payments into existing funds administered by the Securities and Exchange Commission which repay money to defrauded investors. Under my bill, the perpetrators of corporate misdeeds will be fairly punished, and the victims will be fairly compensated.

Everyone agrees that restoring investor confidence is a crucial part of getting our economy back on the right track. The vitality of 10 largest securities firms represent an important piece of this puzzle. But Americans will only be willing to entrust them with their hard-earned money if they can be sure that they are being dealt with ethically and honestly.

The global settlement represents a tremendous opportunity to help mend the tattered relationship between corporate America and the American people. We can't afford to lose that opportunity in a tax loophole. We need to show Americans that corporate fraud is a real crime—not business as usual. I urge my colleagues to support this bill.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, Mr. AKAKA, Mr. REED, Mr. CHAFEE, and Mr. INOUYE:

S. 1976. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medical expenditures, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators DOMENICI, MURRAY, JEFFORDS, CANTWELL, AKAKA, REED, CHAFEE, and INOUYE entitled the ''Children's Health Equity Technical Amendments Act of 2003.''

Since the passage of the Children's Health Insurance Program, or CHIP, in 1997, a group of States that expanded coverage to children in Medicaid prior to the enactment of CHIP have been unfairly penalized for that expansion. States are not allowed to use the enhanced matching rate available to other States for children at similar levels of poverty under the act. As a result, a child in the States of New York, Florida, and Pennsylvania, because they were grandfathered in the original act or in Iowa, Montana, or a number of other States at 134 percent of poverty is eligible for an enhanced matching rate in CHIP but that has not been the case for States such as New Mexico, Vermont, Washington, Rhode Island, Hawaii, and a number of others, including Connecticut, Tennessee, Minnesota, New Hampshire, Wisconsin, and Maryland.

As the health policy statement by the National Governors' Association reads, ''The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S–CHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already significantly expanded coverage of the majority of uninsured children in their states.

For six years, our group of States have sought to have this inequity addressed. Early this year, I introduced the ''Children's Health Equity of 2003'' with Senators JEFFORDS, MURRAY, LEAHY, and Ms. CANTWELL and we worked successfully to get a compromise worked out for inclusion in S. 312 by Senators ROCKEFELLER, and CHAFEE. This compromise extended expiring CHIP allotments only for fiscal years 1998 through 2001 in order to meet budgetary caps.

The compromise allowed States to be able to use up to 20 percent of our State's CHIP allotments to pay for Medicaid eligible children about 150 percent of poverty that were part of our State's expansions prior to the enactment of CHIP. That language was maintained in conference and included in H.R. 2854 that was signed by the President as Public Law 108–74. Unfortunately, a slight change was made in the conference language that excluded New Mexico and Hawaii, Maryland, and Rhode Island needed specific changes so an additional bill was passed, H.R. 3288, and signed into law as Public Law 108–107, on November 17, 2003. This second bill included language from legislation that I introduced with Senator DOMENICI, S. 1547, to address the problem caused to New Mexico by the conference committee's change.

Unfortunately, one major problem with the compromise was that it would allow the 10 States flexibility with its CHIP funds for allotments between 1998 and 2001 and not in the future. Therefore, the inequity continues with CHIP allotments last year, this year, and into the future. This legislation would address that problem and ensure that all future allotments give these 11 States the flexibility to use up to 20 percent of our CHIP allotments to pay for health care services of children above 150 percent of poverty in our respective state Medicaid programs.

This rather technical issue has real and negative consequences in States such as New Mexico. In fact, due to the CHIP inequity, New Mexico has been allocated $266 million from CHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over $26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its federal CHIP allocations.

With the passage of H.R. 2854 and H.R. 3288, that situations will improve somewhat. Unfortunately, the change was not made permanent and does not apply to future CHIP allotments. This legislation would correct this problem.

It is important to note that this initiative includes strong maintenance of effort language as well as incentives for our State to conduct outreach and

enrollment efforts and program simplification to find and enroll uninsured kids because we feel strongly that they must receive the health coverage for which they are eligible.

The bill does not take money from other States's CHIP allotments. It simple allows our States to spend our States' specific CHIP allotments from the Federal government on our uninsured children—just as other States across the country are doing.

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. 1976

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 ''Children's Health Equity Technical Amendments Act of 2003''.

SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP ALLOTMENT FOR ANY FISCAL YEAR FOR CERTAIN MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) (as added by section 1(b) of Public Law 108–74) is amended by striking '', 1999, 2000, or 2001'' and inserting ''and any fiscal year thereafter''.

(b) SPECIAL RULE FOR USE OF ALLOTMENTS FOR FISCAL YEAR 2002 OR THEREAFTER.—Section 2105(g) of the Social Security Act (42 U.S.C. 1397ee(g)) (as so added and as amended by Public Law 108–127) is amended—

(1) in paragraph (2), by striking ''In this subsection'' and inserting ''Subject to paragraph (4), in this subsection''; and

(2) by adding at the end the following:

''(4) SPECIAL RULE REGARDING AUTHORITY TO USE PORTION OF ALLOTMENTS FOR FISCAL YEAR 2002 OR THEREAFTER.—Notwithstanding paragraph (2), the authority provided under paragraph (1)(A) with respect to any allotment under section 2104 for fiscal year 2002 or any fiscal year thereafter (insofar as the allotment is available under subsections (e) and (g) of such section), shall only apply to a qualifying State if the State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

''(A) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

''(B) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

''(C) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

''(D) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

''(E) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).''.

(c) CONFORMING AMENDMENT.—Section 2105(g)(3) of the Social Security Act (42 U.S.C. 1397ee(g)(3)) is amended by striking ''paragraphs (1) and (2)'' and inserting ''this subsection''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect as if enacted on October 1, 2003.

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

S. 1977. A bill to promote the manufacturing industry in the United States by establishing an Assistant Secretary for Manufacturing within the Department of Commerce, an Interagency Manufacturing Task Force, and a Small Business Manufacturing Task Force, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the ''Small Manufacturers Assistance, and Trade (SMART) Act,'' which responds to the needs of America's small manufacturers. This bill offers a new emphasis on programs and services within the Federal Government that will provide small companies a better opportunity to survive in these challenging times and compete in our global economy. The SMART Act introduces new resources, improves existing programs, and expands those programs that work to serve a larger constituency. It is critical that we revitalize our country's manufacturing base and establish an environment for economic growth and job creation.

Small manufacturers constitute over 98 percent of our Nation's manufacturing enterprises, employ 12 million people, and supply more than 50 percent of the value-added U.S. production. It is a sector we cannot afford to ignore. In addition, no industry has witnessed a more profound erosion of jobs.

The damage manufacturing has sustained is nothing short of alarming. Since July 2000, almost 2.8 million U.S. manufacturing jobs have been eliminated. New England alone lost more than 214,000 jobs between June 1993 through June 2003, with 78 percent of those losses, 166,000 jobs, occurring since January of 2001.

In my home State of Maine, we've been shedding jobs at a startling rate over the past decade—and even more so in the past 2 years. Between July 2000 and June 2003 an astounding 17,300 manufacturing jobs were lost.

The bottom line is that we must bolster our manufacturing industry, especially with the current 6.0 percent unemployment rate in the United States. To ensure that the road to recovery is robust, we have a special obligation to provide the investment to allow small companies to grow. In fact, it has been reported that for every dollar of final manufacturing output, an additional $1.26 is created in other industry sectors such as suppliers of raw materials, marketing, and retail industries.

Looking even more broadly, a healthy manufacturing base is essential to the preservation of our Nation's security and its status as a world power. We must end the trend of becoming increasingly dependent upon other countries for the products we use and rely upon. Now is the crucial time for everyone—industry representatives, Congress, the President, Republicans and Democrats alike—to work together toward the common goal of revitalizing this industry.

As the Chair of the Committee on Small Business, I have been focusing considerable attention on the concerns of small business manufacturers and efforts to aid in their recovery. Last month, I held a field hearing on this critical subject in Lewiston, ME. I invited Grant Aldonas, Under Secretary for International Trade of the Commerce Department, and Pamela Olson, Assistant Secretary for Tax Policy of the Treasury Department, to participate and explored with them ways to strengthen and expand this vital industry. Their testimony and comments confirmed that we cannot delay and must act quickly to support our small manufacturing base.

Additionally, I heard from a number of small businesses in the manufacturing industry. Their testimony confirmed the damage sustained by our country's manufacturing sector, and the sense of urgency that we need to act immediately to assist them. The SMART Act is a vital first step toward helping them do what they do best—create jobs.

The bill I introduce today starts by establishing a strong and influential voice for manufacturers within the Federal Government through the creation of an Assistant Secretary for Manufacturing within the U.S. Department of Commerce. The new Assistant Secretary will be responsible for identifying and addressing the concerns of small manufacturers at the highest level of our Federal Government. Senator VOINOVICH has introduced S. 1326, which similarly creates an Assistant Secretary for Manufacturing. I support that bill and Senator VOINOVICH's efforts to assisting our country's manufacturers.

To ensure that the government acts on the needs of manufacturers, the SMART Act creates an Interagency Manufacturing Task Force (IMTF). The mission of the IMTF will be to encourage the Federal departments and agencies to coordinate their efforts by identifying and addressing manufacturing concerns collectively. The IMTF will

be chaired by the Commerce Department's new Assistant Secretary for Manufacturing and will be comprised of representatives from the Federal departments and agencies that directly affect this sector of our economy. In addition, the IMTF will be tasked with the duty of submitting an annual report on their findings and recommendations to the President and the Senate and House Small Business Committees.

In conjunction with this government-wide task force, the SMART Act also continues to improve the Federal infrastructure supporting the industry by establishing a Small Business Manufacturing Task Force (SBMTF) within the Small Business Administration (SBA). The SBA has a wide spectrum of programs and services available to small manufacturers. The mission of the new SBMTF will be to refocus the agency's programs and services to ensure that they respond to the particular needs of small manufacturers while still serving all aspects of the small business community.

Adding to the information gained from the Committee's hearing, we have reviewed the SBA's programs and services that are geared specifically toward manufacturing and international trade. I was alarmed to learn, during this hearing, that small manufacturers were unfamiliar with the SBA programs that can assist them. These findings revealed that the SBA needs to realign its efforts specifically to include manufacturers in the delivery of the agency's program and services.

In order to improve existing SBA small business development programs, the agency needs to take its services beyond the traditional small business enterprise. The SMART Act improves the SBA's entrepreneurial development programs and services so that small manufacturers can grow their business operation, expand their facilities, and purchase new equipment—all of which will result in creating jobs throughout the industry and its supply chain.

Partnerships developed between SBA related organizations and non-SBA related entities will be an additional asset for these producers. The SMART Act directs the SBA to develop partnerships with the Manufacturing Extension Partnership (MEP), community economic development organizations, and the agency's resource partners—such as Small Business Development Centers and SCORE—to create new outreach and training programs for small manufacturers and small businesses in the manufacturing supply chain.

The SMART Act requires SCORE, with its long established expertise in counseling, to extend its reach to small manufacturers and exporters through its online counseling services and its community based offices. The Act also directs SCORE to recruit more counselors with manufacturing and international trade expertise and increase its partnerships with manufacturing and exporting related organizations, which will help increase the marketing capabilities of these small producers and exporters.

I have also learned that small and medium sized companies are often hesitant to engage in the export of their product as a way to grow their small business, because they are often fearful of the many unfamiliar intricacies involved in doing business in a foreign market. Small businesses currently account for almost $300 billion of yearly export sales—nearly one-third of total U.S. exports. However, according to an Administration survey through the SBA's Export Trade Assistance Partnership, approximately 30 percent of non-exporting small businesses are interested in exporting their products and services. These businesses hold the potential to be a major source for even more economic activity and job growth.

The SBA is a pivotal resource in delivering financial and business development tools to businesses seeking to export. The SMART Act improves the SBA's international trade and exporting programs to assist small businesses and manufacturers expand into the export market and play an even greater role in the balance of U.S. trade.

The SMART Act also requires the SBA to establish annual goals that are linked to its trade promotion activities, and to develop programs that will help small businesses compete against imports. This objective will be more easily obtained by incrementally increasing the number of SBA representatives at the U.S. Export Assistance Centers (USEACs) over the next 3 years. To ensure that all States have the same services available, the SBA Office of International Trade will have at least one financial specialist dedicated to the international loan programs and providing oversight of trade financing issues.

The SBA's financing programs have helped American small businesses create and retain jobs, even as other sources of financing have become more scarce. This bill provides improvements to the SBA's 7(a), 504, and Surety Bond programs.

From Fiscal Year 1999 through Fiscal Year 2002, the 7(a) loan program helped small businesses create more than 1.3 million new jobs by making $37.7 billion in financing available to more than 182,000 small businesses. This bill increases the maximum size of 7(a) loans for small exporters from $2 million to $2.6 million by increasing the maximum amount guaranteed by the SBA from $1 million to $1.3 million.

During that same period, the 504 loan program provided more than 20,000 new loans to small businesses, allowing those businesses to create or retain almost 450,000 jobs. The SMART Act increases 504 loan sizes in two ways. First, the bill increases the maximum loan size for manufacturing projects by increasing the SBA's maximum guarantee, which is 40 percent of the total loan size, from $1 million to $4 million. Second, for loans to exporters, the bill increases the maximum loan size from $3.25 million to $5 million by increasing the SBA's maximum guarantee from $1.3 million to $2 million.

Finally, the bill clarifies that under the SBA's Surety Bond Guarantee Program, the SBA may guarantee bonds for specific contracts of $2 million or less, even if the total range of affiliated contracts may exceed $2 million.

These SBA financing programs have helped to create millions of jobs in America, and manufacturers and exporters have been an important part of that success. This bill will increase small companies' and exporters' ability to obtain vital capital that will help them compete in a very difficult international environment and enable them to create more jobs for American workers.

I am drawing these provisions from another bill I have authored, the Small Business Administration 50th Anniversary Reauthorization Act of 203 (S. 1375), which the Committee and the Senate unanimously approved earlier this year. While we are waiting for the House of Representatives to pass an SBA reauthorization bill, I believe that given the importance of these financing provisions, they must be included in this bill as well to increase their chance of being signed into law.

Because Federal assistance for small manufacturers should extend beyond the SBA, the SMART Act will also establish a new Assistant United States Trade Representatives for Small Business within the Office of the United States Trade Representatives (USTR). This office will be tasked with focusing on small businesses', including small manufacturers, concerns in trade negotiations and promoting their exports.

There are currently 21 Assistant USTRs covering issues from services to telecommunications to labor. While small businesses face many of the same issues that serve as barriers to trade as many of the largest multinational corporations, they do not have the same resources to overcome these barriers, thus blocking them from reaping the benefits of international trade. In particular, small businesses do not have the resources necessary to settle private trade disputes in a timely and cost effective fashion, meet physical presence requirements in other countries, conform to complex customs procedures, or meet off-set exclusions in government procurement. By establishing a new Assistant U.S. Trade Representative, we will ensure that the views and concerns of small businesses will have an appropriate seat at the negotiating table and help secure the competitiveness of our small exporters abroad.

The Small Manufacturers Assistance, Recovery, and Trade Act answers the call for help that I have heard too often of late from small manufacturers in this country. These improvements to existing resources within the Federal

government will give these companies a better opportunity to survive in these challenging times and compete in the global economy.

This bill is a critical starting point to revitalize our country's manufacturing base and create an environment that allows them to grow and create jobs again. We must help these businesses access the global marketplace through expanded exporting opportunities and assistance. I intend to work with all groups and interested parties that are committed to improving and passing this bill. There are still many needs that face our Nation's manufacturers—and this is just the beginning.

I look forward to working with my colleagues in the Senate to ensure that the provisions of this bill are enacted so that these companies can continue to grow and reach their full potential.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 1977

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Manufacturers Assistance, Recovery, and Trade Act'' or ''SMART Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—MANUFACTURING AND TRADE REPRESENTATIVES AND TASK FORCE

Sec. 101. Assistant Secretary of Commerce for Manufacturing.
Sec. 102. Interagency Manufacturing Task Force.
Sec. 103. Assistant United States Trade Representative for Small Business.

TITLE II—SMALL BUSINESS ADMINISTRATION

Subtitle A—Manufacturing and Entrepreneurial Development

Sec. 201. Small Business Manufacturing Task Force.
Sec. 202. Entrepreneurial development programs and services.

Subtitle B—Small Business Loan Programs

Sec. 211. Increased loan amounts for exporters.
Sec. 212. Debenture size.
Sec. 213. Job creation or retention standards.
Sec. 214. Clarification of maximum surety bond guarantee.

Subtitle C—International Trade

Sec. 221. Office of International Trade.

TITLE I—MANUFACTURING AND TRADE REPRESENTATIVES AND TASK FORCE

SEC. 101. ASSISTANT SECRETARY OF COMMERCE FOR MANUFACTURING.

(a) ESTABLISHMENT.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law as of the date of enactment of this Act, 1 additional Assistant Secretary of Commerce, to be known as the Assistant Secretary of Commerce for Manufacturing, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate; and

(2) be compensated at the rate of pay provided for under level IV of the Executive Schedule (5 U.S.C. 5315).

(b) DUTIES.—The Assistant Secretary of Commerce for Manufacturing shall—

(1) identify and address the concerns of manufacturers;

(2) represent and advocate for the interests of United States manufacturers;

(3) aid in the development of policies that promote the vitality and expansion of United States manufacturing;

(4) review policies that adversely impact manufacturers;

(5) identify and address issues that are unique to small manufacturers and those that are exacerbated by the size or limited capital of small manufacturers; and

(6) perform such other duties as the Secretary of Commerce may prescribe.

(c) REPORTING REQUIREMENTS.—The Assistant Secretary of Commerce for Manufacturing shall submit to Congress an annual report that contains—

(1) an overview of the state of the manufacturing sector in the United States;

(2) a forecast of the future state of the manufacturing sector in the United States; and

(3) an analysis of current and significant laws, regulations, and policies that adversely impact the manufacturing sector in the United States.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Commerce (11)'' and inserting ''Assistant Secretaries of Commerce (12)''.

SEC. 102. INTERAGENCY MANUFACTURING TASK FORCE.

(a) ESTABLISHMENT.—There is established an Interagency Manufacturing Task Force (referred to in this section as the ''IMTF'') for the purposes of—

(1) maximizing the efforts and resources of Federal agencies in assisting the manufacturing industry;

(2) improving interagency cooperation in their efforts to assist the manufacturing industry;

(3) encouraging additional efforts to assist United States manufacturers;

(4) coordinating the agencies' efforts to assist the manufacturing industry; and

(5) identifying and addressing collective manufacturing concerns.

(b) MEMBERSHIP.—The IMTF shall be composed of 14 members, including—

(1) the Assistant Secretary of Commerce for Manufacturing, who shall serve as chair of the IMTF;

(2) a representative of the Department of the Treasury, to be designated by the Secretary of the Treasury;

(3) a representative of the Department of Defense, to be designated by the Secretary of Defense;

(4) a representative of the Department of Education, to be designated by the Secretary of Education;

(5) a representative of the Department of Energy, to be designated by the Secretary of Energy;

(6) a representative of the Department of Health and Human Services, to be designated by the Secretary of Health and Human Services;

(7) a representative of the Department of Homeland Security, to be designated by the Secretary of Homeland Security;

(8) a representative of the Department of Labor, to be designated by the Secretary of Labor;

(9) a representative of the Environmental Protection Agency, to be designated by the Administrator of the Environmental Protection Agency;

(10) a representative of the Office of the United States Trade Representative, to be designated by the United States Trade Representative;

(11) a representative of the Small Business Administration, to be designated by the Administrator of the Small Business Administration;

(12) a representative of the Executive Office of the President, to be designated by the President; and

(13) 2 additional members, to be designated by the President.

(c) DUTIES.—Under the direction of the Assistant Secretary of Commerce for Manufacturing, the IMTF shall—

(1) provide advice and counsel to the President and Congress on matters of importance to manufacturers;

(2) monitor, coordinate, and promote the plans, programs, and operations of the departments and agencies of the Federal Government that may contribute to the growth of the United States manufacturing industry;

(3) develop and promote new public sector initiatives, policies, programs, and plans designed to foster the manufacturing industry;

(4) review, monitor, and coordinate plans and programs developed in the public sector, which affect the ability of manufacturers to obtain capital, credit, and access to technology;

(5) identify and address regulations that are needlessly burdensome on manufacturers; and

(6) design a comprehensive plan for a joint public-private sector effort to facilitate the growth and development of the United States manufacturing industry.

(d) MEETINGS.—

(1) FREQUENCY.—The IMTF shall meet not less than 4 times per year to perform the duties under subsection (c).

(2) QUORUM.—A majority of the members of the IMTF shall constitute a quorum to approve recommendations or reports.

(e) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) FEDERAL EMPLOYEES.—Each member of the IMTF who is an officer or employee of the Federal Government shall serve without compensation in addition to that received for services rendered as an officer or employee of the United States.

(B) OTHER MEMBERS.—Each member of the IMTF who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent for level IV of the Executive Schedule (5 U.S.C. 5315) for each day (including travel time) during which such member is engaged in the performance of the duties of the IMTF.

(2) TRAVEL EXPENSES.—The members of the IMTF shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of Federal agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular place of business in the performance of services for the IMTF.

(3) DETAIL OF FEDERAL EMPLOYEES.—Any employee of the Federal Government may be detailed to the IMTF without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) REPORTS.—

(1) FINDINGS AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the IMTF shall submit a report containing the findings and recommendations described in paragraphs (1) through (5) of subsection (c) to—

(A) the President;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

(2) GROWTH PLAN.—Not later than 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Manufacturing shall submit the plan prepared pursuant to subsection (c)(6) to—

(A) the President;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

SEC. 103. ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SMALL BUSINESS.

Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following:

''(6)(A) There is established within the Office the position of Assistant United States Trade Representative for Small Business, which shall be appointed by the United States Trade Representative.

''(B) The Assistant United States Trade Representative for Small Business shall—

''(i) promote the trade interests of small businesses, including manufacturers;

''(ii) identify and address foreign trade barriers that impede small business exporters;

''(iii) enforce existing trade agreements beneficial to small businesses;

''(iv) maintain an open line of communication with the Small Business Administration concerning small business trade issues;

''(v) ensure that small business concerns are considered in trade negotiations and agreements; and

''(vi) perform such other duties as the United States Trade Representative may direct.

''(C) The Assistant United States Trade Representative for Small Business shall be paid at the level of a member of the Senior Executive Service with equivalent time and service.''.

TITLE II—SMALL BUSINESS ADMINISTRATION

Subtitle A—Manufacturing and Entrepreneurial Development

SEC. 201. SMALL BUSINESS MANUFACTURING TASK FORCE.

(a) ESTABLISHMENT.—The Administrator of the Small Business Administration (referred to in this subtitle as the ''Administrator'') shall establish a Small Business Manufacturing Task Force (referred to in this section as the ''Task Force'') to address the concerns of small manufacturers.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of a representative from—

(A) the Office of Capital Access;

(B) the Office of Entrepreneurial Development;

(C) the Office of Administration and Management;

(D) the Office of Government Contracting and Business Development; and

(E) any other employee of the Small Business Administration, on a temporary basis, as determined necessary by the Administrator to carry out the goals of the Task Force.

(2) CHAIR.—The Administrator shall assign a member of the Task Force to serve as chair of the Task Force.

(c) DUTIES.—The Task Force shall—

(1) evaluate and identify whether programs and services are sufficient to serve the needs of small manufacturers;

(2) ensure that the Small Business Administration implements the small business manufacturing training programs established under section 202;

(3) actively promote the programs and services of the Small Business Administration that serve small manufacturers; and

(4) identify and study the unique conditions facing small manufacturers and develop and propose policy initiatives to support and assist small manufacturers.

(d) MEETINGS.—

(1) FREQUENCY.—The Task Force shall meet not less than 4 times per year, and more frequently if necessary to perform its duties.

(2) QUORUM.—A majority of the members of the Task Force shall constitute a quorum to approve recommendations or reports.

(e) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Task Force shall serve without compensation in addition to that received for services rendered as an officer or employee of the United States.

(2) DETAIL OF SBA EMPLOYEES.—Any employee of the Small Business Administration may be detailed to the Task Force without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Task Force shall submit a report containing the findings and recommendations of the task force to—

(1) the President;

(2) the Committee on Small Business and Entrepreneurship of the Senate; and

(3) the Committee on Small Business of the House of Representatives.

SEC. 202. ENTREPRENEURIAL DEVELOPMENT PROGRAMS AND SERVICES.

(a) MANUFACTURING OUTREACH AND TRAINING PROGRAMS.—The Office of Entrepreneurial Development of the Small Business Administration shall develop new outreach and training programs for small manufacturers and small businesses in the manufacturing supply chain, in partnership with 1 or more of the following:

(1) The Manufacturing Extension Partnership.

(2) Community economic development organizations.

(3) Small Business Development Centers.

(4) The Service Corps of Retired Executives.

(5) Women's Business Centers.

(b) REPORTING REQUIREMENT.—The Small Business Administration shall include ''manufacturing'' as a category on the scorecard that tracks the goals of the Small Business Administration on its annual performance report to Congress.

(c) MANUFACTURING WORKSHOPS.—The Office of Entrepreneurial Development of the Small Business Administration, in consultation with manufacturing and economic development organizations, shall develop workshops to be conducted by district offices, in conjunction with the entities listed in paragraphs (1) through (5) of subsection (a), addressing—

(1) product design and testing;

(2) the patent process;

(3) prototype demonstrations;

(4) product production;

(5) market research; and

(6) business financing.

(d) SCORE.—The Service Corps of Retired Executives shall—

(1) make their counseling services available to small manufacturers and exporters through their on-line counseling services and community-based offices;

(2) recruit counselors with manufacturing and international trade expertise; and

(3) develop additional partnerships with manufacturing and exporting organizations.

(e) ENTREPRENEURIAL DEVELOPMENT PROGRAM IMPROVEMENTS.—The Office of Entrepreneurial Development of the Small Business Administration shall develop programs and services to strengthen small business vendors and suppliers that participate in the manufacturing supply chain.

(f) SIMPLIFIED REPORTING REQUIREMENTS.—The Small Business Administration shall review and simplify, as appropriate, its reporting requirements for the Small Business Development Centers, the Service Corps of Retired Executives, and Women's Business Centers so that these organizations can maximize the time spent assisting their clients.

(g) DISTRICT OFFICES.—The Small Business Administration shall provide district offices with adequate resources, including budget allocations for travel and materials used to conduct outreach and training activities.

Subtitle B—Small Business Loan Programs

SEC. 211. INCREASED LOAN AMOUNTS FOR EXPORTERS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by inserting before the semicolon at the end the following: ''and paragraph (14)''; and

(B) in subparagraph (B), by striking ''$1,250,000'' and inserting ''$1,300,000''; and

(2) in paragraph (14), by adding at the end the following:

''(D) The total amount of financings under this paragraph that are outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established under this Act may not exceed $1,300,000 and the gross loan amount under this paragraph may not exceed $2,600,000.''.

SEC. 212. DEBENTURE SIZE.

Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) is amended—

(1) by striking ''$1,300,000'' and inserting ''$2,000,000''; and

(2) by inserting before the period at the end the following: '', and loans for which the loan proceeds will be directed toward manufacturing projects, which shall be limited to $4,000,000 for each such identifiable small business concern''.

SEC. 213. JOB CREATION OR RETENTION STANDARDS.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by adding at the end the following:

''(e) JOB CREATION OR RETENTION FOR MANUFACTURING PROJECTS.—A manufacturing project being funded by the debenture is deemed to satisfy the job creation or retention requirement under subsection (d)(1) if the project creates or retains 1 job opportunity for every $100,000 guaranteed by the Administration.''.

SEC. 214. CLARIFICATION OF MAXIMUM SURETY BOND GUARANTEE.

Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended by striking ''contract up to'' and inserting ''total work order or contract amount at the time of bond execution that does not exceed''.

Subtitle C—International Trade

SEC. 221. OFFICE OF INTERNATIONAL TRADE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking ''SEC. 22'' and inserting the following:

''SEC. 22. OFFICE OF INTERNATIONAL TRADE.'';

(2) in subsection (a)—

(A) by inserting ''ESTABLISHMENT.—'' after ''(a)''; and

(B) by inserting ''(referred to in this section as the 'Office'),'' after ''Trade'';

(3) in subsection (b)—

(A) by striking ''The Office'' and inserting the following:

''(b) TRADE DISTRIBUTION NETWORK.—The Office, including United States Export Assistance Centers (referred to as 'one-stop shops' in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8)) and as 'Export Centers' in this section),''; and

(B) by amending paragraph (1) to read as follows:

''(1) assist in maintaining a distribution network using regional and local offices of the Administration, the Small Business Development Center network, the Women's Business Center network, and Export Centers for—

''(A) trade promotion;

''(B) trade finance;

''(C) trade adjustment;

''(D) trade remedy assistance; and

''(E) trade data collection.'';

(4) in subsection (c)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9);

(B) by inserting before paragraph (2), as redesignated, the following:

''(1) establish annual goals within the Office relating to—

''(A) enhancing the exporting ability of small business concerns and small manufacturers;

''(B) facilitating technology transfers;

''(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently against foreign entities;

''(D) increasing the access to capital by small business concerns;

''(E) disseminating information concerning Federal, State, and private programs and initiatives;

''(F) ensuring that the interests of small business concerns are adequately represented in trade negotiations;'';

(C) in paragraph (2), as redesignated, by striking ''mechanism for'' and all that follows through ''(D)'' and inserting the following: ''mechanism for—

''(A) identifying subsectors of the small business community with strong export potential;

''(B) identifying areas of demand in foreign markets;

''(C) prescreening foreign buyers for commercial and credit purposes; and

''(D)''; and

(D) in paragraph (9), as redesignated—

(i) by striking ''full-time export development specialists to each Administration regional office and assigning'';

(ii) by striking ''office. Such specialists'' and inserting ''office and providing each Administration regional office with a full-time export development specialist, who'';

(iii) in subparagraph (D), by striking ''and'' at the end;

(iv) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(v) by adding at the end the following:

''(F) participate jointly with employees of the Office in an annual training program that focuses on current small business needs for exporting; and

''(G) jointly develop and conduct training programs for exporters and lenders in cooperation with the United States Export Assistance Centers, the Department of Commerce, Small Business Development Centers, and other relevant Federal agencies.'';

(5) in subsection (d)—

(A) by inserting ''EXPORT FINANCING PROGRAMS.—'' after ''(d)'';

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E); and

(C) by striking ''To accomplish this goal, the Office shall work'' and inserting ''To accomplish this goal, the Office shall—

''(1) designate at least 1 individual within the Administration as a trade financial specialist to oversee the international loan programs and assist Administration employees with trade finance issues; and

''(2) work'';

(6) in subsection (e), by inserting ''TRADE REMEDIES.—'' after ''(e)'';

(7) by amending subsection (f) to read as follows:

''(f) REPORTING REQUIREMENT.—The Office shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

''(1) a description of the progress of the Office in implementing the requirements under this section;

''(2) the destinations and benefits to the Administration and to small business concerns of travel by Office staff; and

''(3) a description of the participation by the Office in trade negotiations.'';

(8) in subsection (g), by inserting ''STUDIES.—'' after ''(g)''; and

(9) by adding at the end the following:

''(h) EXPORT ASSISTANCE CENTERS.—

''(1) ADDITIONAL CENTERS.—The Administration, in accordance with the March 29, 2002, agreement with the Department of Commerce and the Export-Import Bank, shall assign not less than 4 additional employees to Export Centers during each of the fiscal years 2004 through 2006.

''(2) PLACEMENT.—The Administration shall use the resource allocation methodology, used by the Department of Commerce as of the date of enactment of this subsection, to strategically assign Administration employees to all Export Centers based on the needs of exporters.

''(3) GOALS.—The Office shall work with the Department of Commerce and the Export-Import Bank to establish shared annual goals for the Export Centers.

''(4) OVERSIGHT.—The Office shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Centers.''.

TITLE 1. MANUFACTURING AND TRADE REPRESENTATIVES AND TASK FORCE

Section 101. Assistant Secretary of Commerce for Manufacturing.

This section establishes an Assistant Secretary of Commerce for Manufacturing within the Department of Commerce. The Assistant Secretary shall be responsible for identifying and addressing manufacturers' concerns and representing and advocating for their interests. A person shall be appointed to this position by the President of the United States, in accordance with the Constitution, and shall serve at the discretion of the President of the United States.

Section 102. The Interagency Manufacturing Task Force.

This provision establishes an Interagency Manufacturing Task Force (IMTF). The IMTF will be chaired by the new Assistant Secretary of Commerce for Manufacturing and will be comprised of representatives of the Departments of Treasury, Defense, Education, Energy, Health and Human Services, Homeland Security, and Labor, the Environmental Protection Agency, the Small Business Administration, the United States Trade Representative, a representative of the Executive staff of the President and two additional members designated by the President.

Under the Chair's direction, the IMTF shall: (a) identify and address regulations that are needlessly burdensome on manufacturers; (b) provide advice and counsel to the President and Congress on matters of importance to manufacturers; (c) monitor, coordinate and promote the plans, programs and operations of the departments and agencies of the Federal Government that may contribute to the U.S. manufacturing industry's growth; (d) develop and promote new public-sector initiatives, policies, programs and plans designed to foster the manufacturing industry; (e) review, monitor and coordinate plans and programs developed in the public sector that affect manufacturers' ability to obtain capital, credit and access to technology; and (f) design a comprehensive plan for a joint public-private sector effort to facilitate the growth and development of the U.S. manufacturing industry, which shall be submitted, not later than 1 year after the effective date of the bill, to the President and the Senate and House Small Business Committees. This section also instructs the IMTF to submit a report of its findings and recommendations to the President and the Senate and House Small Business Committees not later than 1 year after the effective date of the bill and annually thereafter.

Section 103. Assistant United States Trade Representative for Small Business.

This section establishes a new Assistant United States Trade Representative for Small Business, within the Office of the United States Trade Representative (USTR). This new position shall promote trade interest for small businesses and ensure that their concerns are considered in trade negotiations and agreements.

TITLE II—SMALL BUSINESS ADMINISTRATION

SUBTITLE A—MANUFACTURING AND ENTREPRENEURIAL DEVELOPMENT

Section 201. The Small Business Manufacturing Task Force.

This section establishes a Small Business Manufacturing Task Force (SBMTF) within the Small Business Administration (SBA), which will be comprised of the SBA personnel appointed by the SBA Administrator. The SBMTF will: (a) evaluate and identify whether existing programs and services are sufficient to serve small manufacturers' needs, or whether additional programs or services are necessary; (b) ensure that the SBA implements the small business manufacturing training initiatives referenced in this legislation; (c) actively promote the SBA's programs and services that serve small manufacturers; and (d) identify and study the unique conditions of small manufacturers and develop and propose policy initiatives to support and assist them. This section also instructs the SBMTF to submit a report of its findings and recommendations to the President and the Senate and House Small Business Committees not later than 12 months after the effective date of the bill and annually thereafter.

Section 202. Entrepreneurial development programs and services.

This section: (a) directs the SBA to create new outreach and training programs for small manufacturers and small businesses in the manufacturing supply chain by developing partnerships with other manufacturing and business-assistance organizations and SBA's resource partners; (b) directs the SBA to include ''manufacturing'' on their scorecard that tracks the goals of the SBA and to report this information to Congress; (c) directs the SBA to consult with manufacturing and economic development organizations to develop and conduct specialized workshops to address important aspects of the manufacturing business; (d) requires SCORE to expand and improve their present counseling services for small manufacturers and exporters; (e) directs the SBA's Office of Entrepreneurial Development to develop programs

and services to strengthen small business vendors and suppliers that participate in the manufacturing supply chain; (f) directs the SBA to review and simplify its reporting requirements for the Small Business Development Centers, SCORE, and Women's Business Centers; and (g) directs the SBA to provide adequate resources to the district offices for outreach and training activities.

SUBTITLE B—SMALL BUSINESS LOAN PROGRAMS

Section 211. Increased loan amounts for exporters.

This section increases the maximum size of a loan that an exporter may receive under the SBA's 7(a) Export Working Capital Program (EWCP) to $2.6 million (instead of the current maximum loan size of $2 million) by increasing the maximum SBA guarantee to $1.3 million (instead of the current maximum SBA guarantee of $1 million). In order to conform the size of the guaranteed portion of an EWCP loan to that of a loan under the SBA's 7(a) International Trade Loan Program, the section also increases the maximum SBA-guaranteed portion of an ITL Program loan from $1.25 million to $1.3 million.

Section 212. Debenture size.

This section increases the maximum loan guarantee amount from $1.3 million to $2 million for loans that support a public policy goal, which includes loans to exporters. The guaranteed amount of $2 million represents 40 percent of the total loan size, so small businesses will be able to receive loans of up to $5 million for these types of projects. This section also increases the maximum size of the SBA's guarantee from $1 million to $4 million for loans that will be used for manufacturing projects (leading to a maximum loan size of $10 million for small manufacturers, because the guarantee represents 40 percent of the maximum loan size).

Section 213. Job creation or retention standards.

This section modifies the job retention or creation standard for small manufacturers (currently one job per $35,000 guaranteed by the SBA) so that the small manufacturers must create or retain one job for each $100,000 guaranteed by the SBA.

Section 214. Clarification of maximum surety bond guarantee.

This section clarifies that the SBA may guarantee surety bonds for specific contracts of $2 million or less when the total range of affiliated contracts exceeds $2 million, or has the potential to exceed $2 million. The surety's bond liability, however, may not exceed $2 million.

SUBTITLE C—INTERNATIONAL TRADE

Section 221. Office of International Trade.

This section: (a) establishes annual goals for the Office of International Trade—specifically, to enhance the export ability of small businesses and small manufacturers, to facilitate technological transfers, to enhance the ability of small business and small manufacturers to compete against foreign corporations, to increase small businesses' access to capital, to disseminate information on programs and initiatives, and to ensure that small businesses are represented in trade negotiations; (b) instructs the Office of International Trade and district office export development specialist to participate in an annual training program that focuses on current small business needs for exporting; (c) instructs the district offices to jointly develop and conduct training programs for exporters and lenders in cooperation with USEACs, the Department of Commerce, Small Business Development Centers and other relevant Federal agencies; (d) amends the Office of International Trade's reporting requirements to include a description and justification for the Office of International Trade's expenditures on travel and participation in trade negotiations; and (e) requires that the SBA increase the number of SBA representatives at the United States Export Assistance Centers (USEACs) over the next 3 years according to the Commerce Department's resource allocation methodology and to designate an individual within the SBA to oversee the agency's participation as well as to work with the USEACs partners to establish annual goals for the Export Centers.

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

S. 1979. A bill to amend the Internal Revenue Code of 1986 to prevent the fraudulent avoidance of fuel taxes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today we introduce a bill to fight tax fraud. I am not talking about just moving around a few numbers on a tax return. Today we will begin closing the loop holes that have created millions of gallon and billions of dollars of missing fuel and missing tax dollars. This problem not only robs the U.S. Treasury it also robs the American Taxpayer.

We rely on these tax dollars to fund not only the Highway Trust Fund, which is charged with constructing and maintaining our national transportation system, this also robs money from our Airport Trust Fund.

In light of investigations completed since September 11th, the safety and soundness of maintaining our nation's transportation infrastructure is now more than ever of the utmost importance. These issues are not just tax fraud—not only are we concerned with the tax loss, but where else is this money going—is it being used to fund terrorism? We need to know where all of this fuel is going. What makes us think that if we cannot find the fuel to collect the tax, that we could find the fuel to stop the terrorists acts. A missing barge could hold ninety tanker truck loads of fuel, that's about $500,000 in Federal and State excise taxes left uncollected, its also hundreds of thousands of gallons that we cannot account. That cannot happen, and this bill should help our enforcement officers close the loop holes and collect the tax that builds our highways.

Mr. BAUCUS. Mr. President, today Senator GRASSLEY and I introduce a bill that is the essence of good government. For a few years now the Senate Finance Committee has been working to increase the revenue into the Highway Fund Trust so we can fund a strong national highway program.

The committee has also been looking at preventing several schemes, scams and cons against the federal government. These are schemes that are used by participants in the fuel distribution chain to evade federal and state fuel taxes, fuel fraud prevention marries both those goals-fighting fraud and increasing revenue into the Highway Trust Fund.

It is crucial to ensure that all the taxes that are due to the Trust Fund are actually getting there, not being diverted as part of some scam to defraud the Federal Government.

That is why I am proud to introduce today the Fuel Fraud Prevention Act of 2003.

I am aware that this is a very controversial subject, but one that we must address. This fraud represents money that the federal government is losing while crooked individuals are getting rich on the backs of good honest citizens.

Uncovering this kind of corruption is what we mean by practicing good government. We need to catch these folks and make sure the money is going where it should.

This is money that goes to transportation projects and creates transportation jobs. That is important to Montana and to all states.

As a result of both TEA 21 and AIR 21, revenues collected by the Trust Funds are directly tied to spending on surface and air transportation. Therefore adequately funding the nation's transportation infrastructure—both surface and air—is almost entirely based on actually collecting all the taxes that should be collected by law.

By Mr. ALLARD (for himself, Mr. BROWNBACK, Mr. SESSIONS, Mr. BUNNING, and Mr. INHOFE):

S.J. Res. 26. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

Mr. ALLARD. Mr. President, I rise today to submit legislation that would amend the United States Constitution identifying and reaffirming the institution of marriage as a union between a man and a woman. The language I submit today is brief and simple:

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the Constitution of any State, nor State or Federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.

This language is simple, direct and to the point. This union is sacred and must remain so.

This resolution is a starting point for a more comprehensive discussion. I look forward to having an involved, informed debate with the other members of this chamber.

I am pleased to be joined in this effort by my colleagues Senator SAM BROWNBACK and Senator JEFF SESSIONS who are original cosponsors of this Resolution.

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

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

S.J. RES. 26

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article

is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE—

"Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the Constitution of any State, nor State or Federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 275—TO AFFIRM THE DEFENSE OF MARRIAGE ACT

Mr. NICKLES (for himself, Mr. BROWNBACK, Mr. SESSIONS, Mr. BUNNING, Mr. CORNYN, Mr. SANTORUM, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 275

Whereas, marriage is a fundamental social institution that has been tested and reaffirmed over thousands of years;

Whereas, historically marriage has been reflected in our law and the law of all jurisdictions in the United States as the union of a man and a woman, and the everyday meaning of marriage and the legal meaning of marriage has always been defined as the legal union of a man and a woman as husband and wife;

Whereas, families consisting of the legal union of one man and one woman for the purpose of bearing and raising children remains the basic unit of our civil society;

Whereas, in Goodridge v. Department of Public Health, the Supreme Judicial Court of Massachusetts ruled 4 to 3 that the Constitution of the State of Massachusetts prohibits the denial of the issuance of marriage licenses to same-sex couples;

Whereas, the power to regulate marriage lies with the legislature and not with the judiciary and the Constitution of the State Massachusetts specifically states that the judiciary "shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men"; and

Whereas, in 1996, Congress overwhelmingly passed, and President Bill Clinton signed, the Defense of Marriage Act under which Congress exercised its rights under the effects clause of section 1 of Article IV of the United States Constitution: Now, therefore, be it

Resolved, That it is the Sense of the Senate—

(1) Congress should take whatever steps necessary to affirm the fact that marriage in the United States shall consist only of the union of one man and one woman;

(2)(A) same-sex marriage is not a right, fundamental or otherwise, recognized in this country; and

(B) neither the United States Constitution nor any Federal law shall be construed to require that marital status or legal incidents thereof be conferred upon unmarried couples or groups; and

(3) the Defense of Marriage Act is a proper and constitutional exercise of Congress's powers under the effects clause of section 1 of Article IV and that no State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such State, territory, possession, or tribe, or a right or claim arising from such relationship.

SENATE RESOLUTION 276—EXPRESSING THE SENSE OF THE SENATE REGARDING FIGHTING TERROR AND EMBRACING EFFORTS TO ACHIEVE ISRAELI-PALESTINIAN PEACE

Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mr. NELSON of Florida, Mr. LEAHY, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 276

Whereas ending the violence and terror that have devastated Israel, the West Bank, and Gaza since September 2000 is in the vital interests of the United States, Israel, and the Palestinians;

Whereas ongoing Israeli-Palestinian conflict strengthens extremists and opponents of peace throughout the region, including those who seek to undermine efforts by the United States to stabilize Iraq and those who want to see conflict spread to other nations in the region;

Whereas more than 3 years of violence, terror, and escalating military engagement have demonstrated that military means alone will not solve the Israeli-Palestinian conflict;

Whereas despite mutual mistrust, anger, and pain, courageous and credible Israelis and Palestinians have come together in a private capacity to develop serious model peace initiatives, like the People's Voice Initiative, One Voice, and the Geneva Accord;

Whereas those initiatives, and other similar private efforts, are founded on the determination of Israelis and Palestinians to put an end to decades of confrontation and conflict and to live in peaceful coexistence, mutual dignity, and security, based on a just, lasting, and comprehensive peace and achieving historic reconciliation;

Whereas those initiatives demonstrate that both Israelis and Palestinians have a partner for peace, that both peoples want to end the current vicious stalemate, and that both peoples are prepared to make necessary compromises in order to achieve peace;

Whereas each of the private initiatives addresses the fundamental requirements of both peoples, including preservation of the Jewish, democratic nature of Israel with secure and defensible borders and the creation of a viable Palestinian state; and

Whereas such peace initiatives demonstrate that there are solutions to the conflict and present precious opportunities to end the violence and restart fruitful peace negotiations: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the courage and vision of Israelis and Palestinians who are working together to conceive pragmatic, serious plans for achieving peace;

(2) calls on Israeli and Palestinian leaders to capitalize on the opportunity offered by these peace initiatives; and

(3) urges the President of the United States to encourage and embrace all serious efforts to move away from violent military stalemate toward achieving Israeli-Palestinian peace.

SENATE RESOLUTION 277—TENDERING THE SINCERE THANKS OF THE SENATE TO THE STAFFS OF THE OFFICES OF THE LEGISLATIVE COUNSEL OF THE SENATE AND THE HOUSE OF REPRESENTATIVES FOR THEIR DEDICATION AND SERVICE TO THE LEGISLATIVE PROCESS

Mr. FRIST (for himself, Mr. GRASSLEY, Mr. HATCH, Mr. BREAUX, Mr. BAUCUS, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 277

Whereas the Offices of the Legislative Counsel of the Senate and the House of Representatives have demonstrated great expertise, dedication, professionalism, and integrity in faithfully discharging the duties and responsibilities of their positions;

Whereas legislative drafting is a lengthy, arduous, and demanding process requiring a keen intellect, thorough knowledge, stern constitution, and remarkable patience;

Whereas the staff of the Senate and House Offices of the Legislative Counsel, in particular, Ruth Ann Ernst, John Goetcheus, Peter Goodloe, Edward G. Grossman, Pierre Poisson, and James G. Scott, have performed above and beyond the call of duty in drafting the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

Whereas the Senate and House Offices of the Legislative Counsel have met the legislative drafting needs of the Senate and the House of Representatives with unfailing professionalism, exceptional skill, undying dedication, and, above all, patience and good humor as the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 passed through the legislative process: Now, therefore, be it

Resolved, That the sincere thanks of the Senate are hereby tendered to the staff of both the Office of the Legislative Counsel of the Senate and the Office of the Legislative Counsel of the House of Representatives for their outstanding work and dedication to the United States Congress and the people of the United States of America.

SENATE RESOLUTION 278—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ANTHRAX AND SMALLPOX VACCINES

Mr. BINGAMAN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 278

Whereas military personnel are asked to risk and even sacrifice their lives and the well-being of their families in defense of the United States;

Whereas vaccines are an important factor in ensuring force health protection by protecting the military personnel of the United States from both natural health threats and health threats resulting from biological weapons in overseas conflicts;

Whereas vaccines offer significant benefits and protections that must be carefully balanced with the reality that vaccines and drugs generally carry rare but serious adverse events and life-threatening risks;

Whereas in 2002, the insert label for the anthrax vaccine required by the Food and Drug Administration was revised to include approximately 40 serious adverse events with information that "approximately 6 percent of the reported events were listed as serious.";