

nursing homes and assisted-living facilities. I applaud their work but recognize we must do more to improve care and contain costs. When you consider that 8 of 10 nursing home residents rely on Medicare and Medicaid for their long-term care needs, it is apparent that Congress has a responsibility to improve these programs so they are sustainable for years to come.

That is why I am introducing the Long-Term Care Quality and Modernization Act of 2006 with Senator LINCOLN. This bill will address several problems nursing homes are experiencing with payments, regulations, workforce shortages, taxes, and disaster preparedness funding. The issue of long-term care expenditures need not be an insurmountable task. It will require action and cooperation by public officials and private providers as we work to find ways to help Americans become better prepared for their long-term care needs.

However, we cannot do it alone. Individuals must take responsibility and begin planning for their long-term care needs. With our national savings rate in steady decline, I fear the American middle class is woefully unprepared to meet the coming challenges of their long-term care. As we move forward in our effort to help individuals stay financially stable in their later years, we must encourage them to purchase long-term care insurance and save for long-term care services. Included in the bill I am introducing today is the Long-Term Care Trust Account Act of 2006. My legislation will create a new type of savings vehicle for the purpose of preparing for the costs associated with long-term care services and purchasing long-term care insurance. An individual who establishes a long-term care trust account can contribute up to \$5,000 per year to their account and receive a refundable 10 percent tax credit on that contribution. Interest accrued on these accounts will be tax free, and funds can be withdrawn for the purchase of long-term care insurance or to pay for long-term care services. The bill will also allow an individual to make contributions to another person's long-term care trust account. This will help many people in our country who want to help their parents or a loved one prepare for their health care needs.

It is my hope that this legislation will help all Americans save for their long-term care needs. I urge my colleagues on both sides of the aisle to support this important bill.

By Ms. COLLINS:

S. 3816. A bill to prohibit the shipment of tobacco products in the mail, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation that will help crack down on illegal sales of tobacco to underaged young people by banning the shipment of cigarettes and other tobacco products through the

U.S. mail. Not only does the delivery of cigarettes and other tobacco products through the mail create opportunities for tax evasion, but it also creates an easy means through which children and young people can obtain these potentially deadly products.

Tobacco remains the No. 1 preventable cause of death in the United States today, accounting for more than 400,000 deaths a year and billions of dollars in health care costs. Moreover, tobacco addiction is a "teen-onset" disease: Ninety percent of all smokers start before they are 21. If we are to put an end to this tragic, yet preventable, epidemic, we must accelerate our efforts not only to help more smokers to quit, but also to discourage young people from ever lighting up in the first place.

Internet sales of tobacco are growing and growing fast. Unfortunately, effective safeguards against illegal sales to young people are virtually nonexistent on the more than 400 Web sites selling tobacco, making it easier and cheaper for kids to buy cigarettes.

A 2002 American Journal of Public Health study found that 20 percent of cigarette-selling Web sites do not say anything about sales to minors being prohibited. More than half require only that the buyer say they are of legal age. Another 15 percent require only that the buyer type in their date of birth, and only 7 percent require any driver's license information.

It is no wonder that Internet "stings" conducted by attorneys general in at least 15 States have found that children as young as 9 years old are able to purchase cigarettes easily. One study in The Journal of the American Medical Association reported that kids as young as 11 were successful more than 90 percent of the time in purchasing cigarettes over the Internet. Moreover, since Internet cigarette vendors typically require a two-carton minimum purchase, many high school and middle school buyers of Internet tobacco also end up serving as suppliers of cigarettes to other kids.

In an effort to combat this problem, all of the major credit card companies have taken steps to ensure that their systems are not used to process payments for illegal cigarette sales. Moreover, all of the major commercial carriers—UPS, DHL and FedEx—have agreed to put a stop to the mail order sale and delivery of tobacco products. This leaves our U.S. Postal Service as the sole remaining courier for the delivery of tobacco products to minors. I believe that it is time for us to close this final delivery gap so that cigarettes and other tobacco products are not so easily accessible to our Nation's children.

The Postal Code already makes it illegal to mail alcoholic beverages and guns. The legislation I am introducing today will amend title 39 of the United States Code to add cigarettes and smokeless tobacco to the list of restricted, nonmailable matter. Any per-

son found guilty of mailing such a product would be liable for a civil penalty of up to \$5,000 or 10 times the estimated retail value of the tobacco products, including all Federal, State, and local taxes, whichever is highest, for a first violation. Civil penalties of up to \$100,000 would be imposed for a second or each subsequent violation.

Mr. President, the U.S. Postal Service should not be the delivery agent for illegal cigarette traffickers. The legislation I am introducing today will close a loophole that has allowed Internet and mail order companies to circumvent the law, and I urge my colleagues to support this reform.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 3818. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce with Senator LEAHY the Patent Reform Act of 2006.

This bill addresses many of the issues and problems that my colleague, Senator LEAHY, and I have identified through a series of hearings and discussions with stakeholders. We also had the benefit of knowing the priorities identified by Chairman LAMAR SMITH and Ranking Democratic Member BERMAN, who have introduced an analogous bill in the House.

I would like to thank the Senator LEAHY for all of his hard work and assistance in developing this bill and for his willingness to reach a compromise on those issues where our policy views conflicted.

This bill is not perfect, and is not the bill that either I or my esteemed cosponsor would have introduced independently, but I believe that it fairly reflects a compromise between my priorities and the priorities of Senator LEAHY.

We have also attempted to achieve some balance between the priorities identified by the various industries and stakeholders that we consulted while formulating our policy views in this area.

I am sure that further refinements will be made to this bill during the legislative process, so I would encourage those who are either pleased or displeased by any of the aspects of the bill to continue working with us to resolve any outstanding issues.

This bill addresses many of the problems with the substantive, procedural, and administrative aspects of the patent system, which governs how entities here in the United States apply for, receive, and eventually make use of patents covering everything from computer chips to pharmaceuticals to medical devices to—I am told—at least one variety of crustless peanut butter and jelly sandwich.

As the Founding Fathers made clear in Article 1, section 8 of the Constitution, Congress is charged with "promot[ing] the Progress of Science

and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

There is a growing consensus among those who use the patent system that significant reform is needed.

While there appears to be a high degree of consensus on some issues relating to patent reform—such as the advisability of creating a new post-grant review process, there are significant disagreements about other changes to the patent system and about how best to streamline patent litigation.

By all accounts, patent litigation has become a significant problem in some industries. There are a number of factors in patent law that drive up the cost and uncertainty of litigation in ways that are unjustified. However, some of the principal problems and costs associated with patent litigation are not uniform across industrial sectors. This has led to substantial and sometimes vociferous disagreements about the nature of the underlying problems and, thus, what the appropriate solutions might be. We have done our best to resolve these disagreements based on our judgment about what is likely to preserve a balance between patent holders and alleged infringers in these actions.

There is also substantial consensus regarding a number of basic, structural changes to the patent system. The most significant of these involves moving from our current first-to-invent system to something approximating a first-to-file rule in determining which of two conflicting inventors has the right to obtain a patent.

While there is general agreement regarding some of the changes necessary to move toward a first-to-file system, there are some disagreements that remain unresolved by the current language of this bill. Although we have done our best to preserve many of the principles defining what constitutes “prior art” under current law, patent experts continue to disagree over whether we have achieved this goal.

Additionally, shortly before introduction, a concern emerged that we had not adequately preserved the changes enacted by the Cooperative Research and Technology Enhancement Act—CREATE Act, P.L. 108-453—involving some types of double patenting. Since Senator LEAHY and I were original cosponsors of that law, I can assure you that we will be receptive to concerns in this regard and try to fix them.

With that preface, I would like to discuss several of the more significant changes made to the current patent system by this bill.

Sections 1 and 2 of the bill contain the short title, table of contents, and other similar provisions. Sections 3 and 4 contain amendments to implement the first-to-file rule and other changes to the manner in which patent applications are filed with the Patent and Trademark Office and the process gov-

erning the examination of applications. Much of this language is similar to language in previous bills. However, as I have mentioned, several significant issues remain unresolved, and we will continue to work with stakeholders and other members to ensure an appropriate resolution.

Section 5 changes the remedies available to plaintiffs in patent infringement suits, as well as the available defenses to patent infringement. The two most substantial changes involve limitations on the availability of enhanced damages upon a showing of “willful” infringement by a plaintiff and a parallel limitation on the availability of unenforceability under the doctrine of “inequitable conduct.” Willfulness and inequitable conduct were two of the three major subjective elements that were identified in a major report on the current patent system by the National Research Council of the National Academy of Sciences. The report, entitled “A Patent System for the 21st Century,” recommended limiting both willfulness and the inequitable conduct defense to streamline patent litigation. We were unable to reach agreement on repealing the “best mode” requirement, which was the third subjective element identified both in the report and by various stakeholders, but I am hopeful that we will continue to work toward a mutually-acceptable compromise on that issue.

Section 5 also contains a provision expanding “prior user rights.” These prior user rights are, in reality, a defense to infringement liability for those making or preparing to make commercial use of an invention prior to a patent being issued. Prior to a patent’s issuance, such a user often has no way of knowing that he is—or will be—infringing a patent. In some cases, the user has independently invented the subject matter in question, in which case it would be inequitable to subject him or her to infringement liability. Currently, the prior user defense is available only with respect to method patents. The bill expands the prior user defense to all categories of patents and makes related changes to this defense.

Additionally, Section 5 contains two of the more controversial provisions in the bill. The first is a rough codification of an “apportionment” rule for calculation of damages. There is an existing, uncodified rule for such apportionment that exists in case law. However, codifying the rule will increase its clarity and mandate its application in all appropriate cases.

The second controversial provision in this section is a mandatory fee shifting provision. The language of this provision requires courts to award attorneys’ fees to a prevailing party in cases where the non-prevailing party’s legal position was not substantially justified. This language is similar to the test used in the Equal Access to Justice Act. This provision is intended to discourage litigation in those cases where a plaintiff’s or defendant’s case

is so weak as to be objectively unreasonable.

Finally, this section also contains a repeal of Section 271(f) of Title 35. Under current law, either a foreign or domestic patent holder may be able to obtain damages based on foreign uses of domestically-manufactured components of an infringing article. In essence, current law provides for the extraterritorial application of domestic law in a manner that benefits foreign manufacturers and patentees in some situations.

Section 6 contains procedures for instituting a new type of post-grant review preceding that will allow the validity of a patent to be challenged in an administrative proceeding conducted by the Patent and Trademark Office rather than in court litigation.

Under current law, there are narrow reexamination procedures by which the PTO may reconsider a patent’s validity at the request of an interested party. However, current reexamination proceedings are very limited and do not allow for a full consideration of a patent’s validity. As a result, even when reexamination is available, potential litigants generally wait to challenge a patent’s validity until an infringement suit has been brought despite the higher costs and prolonged uncertainty of doing so.

I believe that by adopting a more robust post-grant review proceeding we are providing a more efficient means of challenging a patent’s validity in an administrative proceeding. This is necessary to address systemic problems in our patent system, making post-grant review an essential component of any meaningful reform legislation. While there appears to be substantial agreement regarding the need for a more meaningful post-issuance review, there are strong disagreements over its specific attributes and scope.

During hearings conducted in the Subcommittee on Intellectual Property and during meetings with stakeholders, we encountered widely disparate proposals and suggestions regarding post-grant review from stakeholders, academics, and lawmakers. At one end of the spectrum are proposals that would create a low-cost, streamlined proceeding by simply expanding the current inter partes reexamination. At the other end of the spectrum are those that would like to see the creation of specialized patent courts that would partially supplant Federal court litigation. With this bill, we have introduced a proposal that falls somewhere in between these two extremes.

This bill institutes a robust post-grant opposition system. The new procedures for post-grant cancellation proceedings create a new system for challenging the validity of problematic or suspect patents, which will allow those who are concerned about infringing such a patent to test its validity in an administrative proceeding instead of waiting to assert invalidity as a defense in an infringement action. The

new procedures are tiered in such a way as to encourage challenges to occur within the first year after a patent's issuance. After the one-year "first window," challenges may still be brought by those who are able to demonstrate a substantial economic stake in the outcome of the proceeding. To deter piecemeal litigation, if a party institutes a proceeding after the first year, any challenge to patentability available to that party with respect to the patent must be either raised or waived. Thus, a challenger who participates in a proceeding outside the first year is estopped from raising any grounds relating to patentability that were or could have been raised in the previous challenge.

In addition to the new post-grant review proceedings, language in section 9 of this bill makes substantial improvements to the existing inter partes reexamination proceeding that are based on recommendations from the PTO and stakeholders. The most significant change to the reexamination proceedings is the modification of the estoppel effect of such proceedings. Currently, participants in an inter partes reexamination are barred from subsequently raising any grounds they "raised or could have raised." Thus, parties who wish to challenge a patent more than a year after its issuance will have the option of bringing a narrow challenge that will not subject them to full estoppel as an alternative to bringing a full post-grant opposition proceeding or reserving their arguments for court. This approach provides a range of alternatives to legitimate challengers, while still providing balanced protections against harassing or abusive litigation for the patentee.

Section 8 would amend the current statutory provision that determines the appropriate venue for patent litigation. The intent of the venue language is to serve as a starting point for discussions as to what restrictions—if any—are appropriate on the venue in which patent cases may be brought. Section 8 also contains a provision allowing for interlocutory appeals of decisions involving the claim construction of a patent. Again, this language is intended to generate discussion about the current interplay between the Federal district and appellate courts. As both academics and the patent bar have noted, the resolution of the legal questions involving claim construction appear to be taking up a greater and greater portion of the docket of the Federal circuit court of appeals.

Given the high percentage of reversals on claims construction issues, some experts believe that an interlocutory appeal of Markman decisions might allow parties to resolve disputes as to claim construction more decisively prior to proceeding to a full trial. Alternatively, other experts believe that a return to the treatment of claims construction as a mixed question of law and fact might induce more

deferential review by the appellate court. Still others have suggested that increased expertise among the district court judges trying patent cases might result in a lower reversal rate. In that regard, I should note that Congressman ISSA has a bill authorizing a pilot project that appears to be a promising approach to increasing the expertise of Federal judges who handle patent cases, and I am considering introducing a similar bill here in the Senate. While I am not wedded to any particular approach or combination of approaches, I believe this is an issue that should receive serious attention and consideration by Congress.

Section 9 of the bill includes additional statutory changes that either implement or complement provisions found elsewhere in the bill. It also includes expanded authority for the PTO to conduct substantive rulemaking, as well as the changes to the inter partes reexamination procedures that I mentioned previously.

Section 10 includes a generic effective date provision. Obviously, I will need to modify the effective dates of the various provisions in the bill once we have been able to assess the difficulty of implementing various provisions in this bill.

In closing, I would like to thank my cosponsor, the senior Senator from Vermont, for all the work he has put into this bill and to compliment his intellectual property counsel, Susan Davies, for her efforts as well. I am committed to moving this legislation forward and hope that my colleagues will join me in my efforts to refine and enact this important bill.

Mr. LEAHY. Mr. President, the Senate is about to adjourn for its August recess—4 weeks when we get to reconnect with our constituents, catch up on the concerns of our home States, and study our legislative plans with a depth and attention that we cannot devote during the hectic days we are in session. Some of us may even spend a little time with our families and friends. As I have done in years past, I will be in Vermont. The choice between spending August in Washington, DC, or Middlesex, VT, has always been an easy one for me.

When the Senate is in session, our obligations are many and varied, as important as they are diverse. We hold hearings, and then we pursue followup questions. We try to engage in oversight, though that has not been a particularly fruitful exercise with this current administration. We investigate issues, and then we endeavor to craft solutions. We vote and we caucus and we deliberate.

It is not always a process that yields results, but today I can report it has. I am pleased to join with the chairman of the Intellectual Property Subcommittee today in introducing a bipartisan bill on patent reform. The bill is the result of almost 2 years of hard work on hard issues. We held several hearings, had innumerable meetings

with a universe of interested participants in the patent system, and received input from a number of voices in debate about patent reform. We delved deeply into the myriad problems plaguing our patent system, especially those that hinder the issuance of high-quality patents.

In introducing this bill together, we take a productive step toward updating the most outdated aspects of the patent code and attempt to bolster the Patent and Trademark Office in its administrative review of patents throughout the process. We are striving to place incentives on the parties with the most information to assist the PTO by sharing that information. We place our patent system in line with much of the rest of the world, by moving from a "first-to-invent" system to a "first-to-file."

Congress needs to address the urgent needs for revision and renewal in our patent system, and we must harness the impressive intellectual power and varied experiences of all the players in the patent community as we finalize our new laws. I believe that, while introducing this bill today is not the end of the process—and indeed, in many respects, it is truly the beginning—it is a significant accomplishment that we have come together to set down a comprehensive approach to overhauling our patent system. If the United States is to preserve its position at the forefront of innovation, as the global leader in intellectual property and technology, then we need to move forward, and this bill is our first step. We must improve and enhance the quality of our patent system and the patents it produces.

This legislation is not an option but a necessity. Senator HATCH and I have made genuine progress on this complex issue. We agreed on many salutary changes, but it can be no surprise that we differed on some aspects of the effort as well. Recognizing the critical importance of compromise, of offering a bill to the interested public to study and improve, and of taking a clear first step down the path to genuine reform, we both made concessions. This is not the bill I would have introduced if I were the sole author, and I expect Senator HATCH would say the same. I appreciate the concessions that Senator HATCH made. I have tried to be both reasonable and accommodating in honoring my commitment to him—a commitment that he requested specifically—to introduce a bill before the August recess.

In particular, I am concerned about how some of the changes proposed would affect the generic pharmaceutical industry, especially the provision that would limit the "inequitable conduct" defense to only those cases in which a patentee's willful deception of the PTO results in an invalid patent claim. While I think we should expect the highest caliber of behavior by those who are seeking patents—which are, after all, often highly profitable government monopolies—surely we can at

least insist on an absence of affirmative deceit. I hope and expect that we can continue the discussion on this issue as the year progresses.

I also want to ensure the delicate balance we have struck in the post-grant review process and make certain that the procedure is both efficient and effective at thwarting some strategic behavior in patent litigation and at promoting a healthier body of existing patents. Fee-shifting, even in a limited set of cases, likewise raises concerns that should have a more public airing.

I respect the necessity for considering and balancing a number of different concerns as we draft comprehensive and complicated legislation. I will never sacrifice the quality of the laws we produce to expediency, but I recognize the utility of such compromises when, as with this bill, introduction is a first step in a larger and longer discussion.

I am extremely pleased that Senator HATCH and I have come together to tackle these important and urgent issues. Many hours of hard work were spent by both of our offices to develop legislative language so that we can, today, jointly introduce a bill to move the debate forward. The bill is a remarkable achievement and a substantial step toward real reform. I look forward to continuing to work with Senator HATCH, other members of the Senate Judiciary Committee, and the affected parties on these matters.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mrs. LINCOLN, Mr. PRYOR, and Mr. AKAKA):

S. 3819. A bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended medicaid DSH allotments, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators SMITH, LINCOLN, PRYOR, and AKAKA entitled the "Strengthening the Safety Net Act of 2006." This legislation is important to the continued survival of many of our Nation's safety net hospitals that provide critical health care access to our Nation's 46 million uninsured citizens through the Medicaid disproportionate share hospital, or DSH, program.

In recognition of the burden certain hospitals bear in providing a large share of health services to the low-income patients, including Medicaid and the uninsured, the Congress established the Medicaid DSH program in the mid-1980s to give additional funding to support such "disproportionate share" hospitals. By providing financial relief to these hospitals, the Medicaid DSH program maintains hospital access for the poor. As the National Governors Association has said, "Medicaid DSH's funds are an important part of state-wide systems of health care access for the uninsured."

Mr. President, I request unanimous consent for the text of the bill and the

text of the fact sheet on the legislation be printed in the RECORD.

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

S. 3819

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 "Strengthening the Safety Net Act of 2006".

SEC. 2. REDISTRIBUTION AND EXTENDED AVAILABILITY OF UNEXPENDED MEDICAID DSH ALLOTMENTS.

Section 1923(f) of the Social Security Act (42 U.S.C. 1396f-4(f)) is amended—

(1) in paragraph (3)(A), by striking "paragraph (5)" and inserting "paragraphs (5) and (7)";

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6), the following new paragraph:

"(7) REDISTRIBUTION AND EXTENDED AVAILABILITY OF UNEXPENDED ALLOTMENTS.—

"(A) ESTABLISHMENT OF REDISTRIBUTION POOL.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall establish, as of October 1 of fiscal year 2007, and of each fiscal year thereafter, the following redistribution pool:

"(I) In the case of fiscal year 2007, a \$150,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for fiscal year 2004.

"(II) In the case of fiscal year 2008, a \$250,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for fiscal year 2005.

"(III) In the case of fiscal year 2009 and each succeeding fiscal year thereafter, a \$400,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for the third preceding fiscal year.

"(ii) UNEXPENDED STATE DSH ALLOTMENTS.—If a State claims Federal financial participation for a payment adjustment made under this section for a fiscal year from which a redistribution pool of unexpended State DSH allotments has already been created under clause (i), then, for purposes of this paragraph, the total amount of unexpended State DSH allotments in the fiscal year following the State claim for such Federal financial participation, shall be reduced by the Federal financial participation related to such claim.

"(iii) REDUCTION IN AMOUNTS AVAILABLE.—If the total amount of the unexpended State DSH allotments for a fiscal year (taking into account any adjustment to such amount required under clause (ii)) is less than the amount necessary to provide, for such fiscal year, the redistribution pool described in clause (i) and the amounts to be made available for grants under section 3(g) of the Strengthening the Safety Net Act of 2006 for such fiscal year, the Secretary shall reduce the amounts that are to be available for the redistribution pool under this paragraph and grants under such section, respectively, to such total amount.

"(B) REDISTRIBUTION.—

"(i) IN GENERAL.—Not later than October 1, 2006, and October 1 of each year thereafter, the Secretary shall allot the redistribution pool established for that fiscal year among eligible States.

"(ii) PRIORITY.—In making allotments under clause (i), the Secretary shall give priority—

"(I) first to eligible States described in paragraph (5)(B) (without regard to the requirement that total expenditures under the

State plan for disproportionate share hospital adjustments for fiscal year 2000 is greater than 0); and

"(II) then to eligible States whose State DSH allotment per medicaid enrollee and uninsured individual for the third preceding fiscal year is below the national average DSH allotment per medicaid enrollee and uninsured individual for that fiscal year.

"(C) EXPENDITURE RULES.—An amount allotted to a State from the redistribution pool established for a fiscal year—

"(i) shall not be included in the determination of the State's DSH allotment for any fiscal year under this section;

"(ii) notwithstanding any other provision of law, shall remain available for expenditure by the State through the end of the second fiscal year after the fiscal year in which the allotment from the redistribution pool is made for expenditures incurred in any of such fiscal years; and

"(iii) shall only be used to make payment adjustments to disproportionate share hospitals in accordance with the requirements of this section.

"(D) DEFINITIONS.—In this paragraph:

"(i) ELIGIBLE STATE.—The term 'eligible State' means, with respect to the fiscal year from which a redistribution pool is established under subparagraph (A)(i), a State that has expended at least 90 percent of the State DSH allotment for that fiscal year by the end of the succeeding fiscal year.

"(ii) STATE DSH ALLOTMENT PER MEDICAID ENROLLEE AND UNINSURED INDIVIDUAL.—The term 'State DSH allotment per medicaid enrollee and uninsured individual' means the amount equal to the State DSH allotment for a fiscal year divided by the sum of the number of individuals who received medical assistance under the State program under this title for that fiscal year and the number of State residents with no health insurance coverage for that fiscal year, as determined by the Bureau of the Census.

"(iii) NATIONAL AVERAGE DSH ALLOTMENT PER MEDICAID ENROLLEE AND UNINSURED INDIVIDUAL.—The term 'national average DSH allotment per medicaid enrollee and uninsured individual' means the amount equal to the total amount of State DSH allotments for a fiscal year divided by the sum of the total number of individuals who received medical assistance under a State program under this title for that fiscal year and the total number of residents with respect to all States who did not have health insurance coverage for that fiscal year, as determined by the Bureau of the Census."

SEC. 3. HEALTH SERVICES FOR THE UNINSURED.

(a) DEMONSTRATION GRANTS TO HEALTH ACCESS NETWORKS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall award demonstration grants to health access networks.

(2) APPLICATION.—Each applying health access network shall submit a plan that meets the requirements of subsection (c) for the purpose of improving access, quality, and continuity of care for uninsured individuals through better coordination of care by the network.

(3) AUTHORITY TO LIMIT NUMBER OF GRANTS.—The number of demonstration grants awarded under this section shall be limited, in the discretion of the Secretary, so that grants are sufficient to permit grantees to provide patient care services to no fewer than the number of uninsured individuals specified by each network in its grant application.

(b) DEFINITION OF HEALTH ACCESS NETWORK.—

(1) IN GENERAL.—In this section, the term "health access network" means a collection