respect to child support arrears to require that States have and use procedures to place liens on titled motor vehicles owned by individuals owing child support arrears equal to two months of support. Such liens would take precedence over all other encumbrances on a vehicle title, other than a purchase money security interest, and could be used to form the basis of a lien enforcement action.

Sec. 706. Voiding of fraudulent transfers

Section 706 requires States to have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, and other similar law provisions for voiding of transfers of income or property made to avoid payment of child support.

Sec. 707. State law authorizing suspension of licenses

Section 707 requires enactment of laws giving the State authority to withhold, suspend, or restrict use of driver’s licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing to respond to subpoenas or warrants relating to paternity or child support proceedings.

Sec. 708. Reporting arrearages to credit bureaus

Section 708 amends the requirement for a State to implement a system for the reporting of child support arrears to consumer credit bureaus (which currently must permit such reporting) to require such reporting when payment is one month overdue.

Sec. 709. Extended statute of limitation for collection of arrearages

Section 709 requires that State law provide a statute of limitations on child support arrears expiring at least until the child reaches age 30. (This amendment would not require a State to revise any payment obligation which had lapsed on the effective date of the State law.)

Sec. 710. Charges for arrearages

Section 710 requires State laws to provide, not later than October 1, 1998, for assessment of interest or penalties for child support arrearages.

Sec. 711. Visitation issue barred

Section 711 requires State laws to provide that failure to pay child support is not a defense to denial of visitation rights, and denial of visitation rights is not a defense to failure to pay child support.

Sec. 712. Denial of passports for nonpayment of child support

Section 712 amends 4 U.S.C., effective October 1, 1996, to provide that the Secretary of State may deny passports to an individual who has child support arrearages of over $5,000, must refuse to issue a passport to the individual and may revoke or restrict a passport for any child support arrearage.

Sec. 713. Denial of Federal benefits, loans, and guarantees

This section provides that no Federal agency may make a loan to, provide any guarantee for the benefit of, or provide any benefit to any person who has a child support arrearage exceeding $1,000 and who is not in compliance with a plan or an agreement to repay this obligation. This provision is designed to alleviate the issue of child support in the operations of the Federal government. The Federal agencies determine, for example, if a contractor is on the suspension and debarment list before the agency awards a contract to the company. The purpose of this section is to create this type of screening system for child support obligations.

Sec. 714. Tax liens

This section provides that the distributor of lottery winnings, insurance settlements, judgments, and other property seizures shall first seek a determination from the State child support enforcement agency as to whether the person owes a child support arrearage. If there is an arrearage, then there shall be a withholding of that amount which shall be sent to the Child Support agency for distribution.

Sec. 801. Child support enforcement and assurance demonstrations

Section 801 authorizes the Secretary to fund grants to 3 States for demonstrations, beginning in FY 1998 and lasting from 7 to 10 years, providing assured levels of child support for child support enforcement and support have been established. The projects would be administered by the State IV-D agency or the State department of taxation and revenue. Annual benefit levels set by States could range from $1,500 to $3,000 for a family with one child, and from $3,000 to $4,500 for a family with four or more children. States could require absent parents with insufficient income to pay support to work off support by participating in work programs.

Ninety percent Federal matching would be available from appropriations for payments to States under title IV-D, but total Federal funds available for these demonstrations would be capped at $27,000,000 for FY 1998; $55,000,000 for FY 1999; $70,000,000 for each of FY’s 2000 through 2003; and $55,000,000 for FY 2004. This section authorizes appropriation of $10 million for each year thereafter, to remain available until expended, for the Secretary’s costs for evaluating demonstrations under this section.

Sec. 802. Social Security Act demonstrations

Section 802 amends section 1115(c) of the Act (which currently requires that IV-D demonstrations not result in increased costs to the Federal Government under AFDC) to require that a demonstration that sustains itself, or that does not result in an increase in total costs to the Federal Government.

Title IX—Access and Visitation Grants

Sec. 901. Grants to States for access and visitation programs

Section 901 adds a new section 469A of the Act providing for new capped entitlement program of grants to States for programs to assist absent parents and their related children to have financial support and visitation of their children. The program would be funded at $5 million for each of FY’s 1997 and 1998, and $10 million for year thereafter. The funding would be available to match 90 percent of a State’s expenditures up to the amount of its allotment under a formula based on the numbers of children living with only one biological parent. State programs could be administered by the CSE agency either directly or through courts, local public agencies, or non-profit private entities, and could be Statewide or geographically limited.

Title X—Effect of enactment

Sec. 1001. Effective dates

Section 1001 provides that, except as otherwise specified, provisions of this title requiring enactment of State laws or revision of State IV-D plans shall become effective October 1, 1998.

All other provisions of this title become effective upon enactment, subject to proviso—

Affording a State until after the end of the next State legislative session beginning after enactment, in the case of any provision of this title requiring enactment or amendment of State laws; and

Affording a State up to 5 years to comply if a State constitutional amendment is required to permit compliance.

Section 1002. Severability

Section 1002 provides that the provisions of this title are severable, and that any provision found invalid will not affect the validity of other provisions. This can be done in effect without regard to the invalid provision.

OFFICE OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Washington, DC.

Dear Senator Pryor:

We share your concern regarding the future of the children and families of Arkansas. Congress is considering sweeping changes to reform our welfare system. This will affect families struggling to support their children. An effective child support enforcement program is a necessary part of this reform. Regular child support payments must be ensured if single parent families are to have financial security necessary for children to thrive and to be successful citizens and relieve the burden of taxpayers.

As child support enforcement professionals, we support the efforts of Congress to improve the present program. We realize the importance of our role in empowering individuals to become self-sufficient and we embrace the challenges ahead. Our mission is to provide assistance to children and families in obtaining financial and medical support through locating noncustodial parents, promoting self-sufficiency and support obligations, and enforcing those obligations. Our vision for the future is to put children first by helping parents assume responsibility for their social and economic well-being and health of their children.

To accomplish these goals we must have improved and uniform enforcement remedies that reach across state lines. We must also have improved operational support from both the state and federal government and increased funding. While other programs may lend themselves to block grants, nonpayment of child support transcends state lines and requires some uniformity in enforcement. Competing state interests affect state legislation more readily than at the federal level. Many state child support programs lack the mandate that federal mandates of proven enforcement and operational remedies to assist them in acquiring effective collection tools. Not all mandates are bad. Much of the pressure for increased funding comes about through federal mandates and the resulting uniformity from state to state has been most beneficial. Child support advocates and professionals agree on much of what is needed to improve the program nationwide. They include the following:

Central Registry of Child Support Orders—States should be required to develop and implement a central registry of all child support orders. State central registries should be formatted similarly to form a national central registry of child support orders.

Central Collection Systems—It is difficult to enforce child support orders because of the variety of collection points. To enforce an order, payments made or not made must be accounted for to determine past due support. With child support payments being paid directly to custodial parents, court clerks or local agencies it becomes a time consuming process to collect payment records from different sources in order to determine past due arrears. Central payment processing has proven to be effective and efficient where implemented. This processing enables IV-D agencies to monitor delinquencies in child support cases and allows
for expedited enforcement remedies to be implemented immediately upon delinquency. Many of the IV-D agency’s cases have been delinquent for months or years when they enter the federal monitoring process, so it is essential if we as a nation are to have an effective child support program. Collections should not become delinquent. If they do become delinquent, immediate enforcement actions must be taken.

3. New Hire Reporting—New hire reporting has historically been a problem in many states. It is an effective tool to locate job hoppers. Employers report new hires to the state IV-D agency or in cooperation with state employment security agencies. Employers are required to report new hires within 30 days of the hire date. If an employee is hired at present, there is no way to locate a job hopper for at least one quarter of the year when withholding is first reported. Custodial and noncustodial parents have waited years to feed and clothe their children. There are those who feel that this is too heavy a burden upon employers. It need not be. It could be as simple as forwarding a copy of a W-4 form. We have found employers to be responsive and concerned about child support issues. When new hire reporting was erroneously reported as having passed our legislature, employers called wanting to know how to report new hires. There was no opposition in the employer community but certain lawmakers presented strong opposition to the measure. It is difficult to win approval for such a measure on the local level and to get it requires federal leadership.

4. License Suspension—License suspension or revocation is a proven and effective administrative procedure to compel payment of past due arrears. It is somewhat controversial because of vested interest and licensing agencies reluctance to participate, but it has proven to be effective in Maine, California and numerous states. Nineteen states have adopted some form of license suspension or revocation. To be an effective remedy all states need to have access to licensing revocation and suspension. For interstate enforcement a request to suspend a license in another state would be most beneficial and would be a deterrent to nonpayers to flee from one state to another to avoid paying child support.

In addition to new enforcement techniques, support from the federal government not just in dollars and cents but in cooperation from one state to another to avoid paying child support would be a deterrent to nonpayers to flee from state to state. We recommend that Congress pass laws that would require the Social Security Administration (SSA) to provide information to the child support agencies for the purpose of determining the location and the ability of the noncustodial parent to pay support. Currently, SSA is reporting information through the Federal Parent Locator Service. However, the information that we receive is minimal and outdated. We need to know if a noncustodial parent has filed a claim for benefits, the amount of benefits paid to the noncustodial parent and the children, the amount of any lump sum payment to the noncustodial parent and the children. This information is vital in determining support obligations and arrearage.

2. IRS Locate and Asset Information—The IRS has a valuable service in the analysis of the Federal Tax Offset program. Information on income is available from 1099 files. However, the Internal Revenue Service (IRS) is probably the new enforcement tool by guarding the information it shares with state child support agencies and does not want the information shared with anyone who is not a state employee. Many states have contracted with local jurisdictions or private entities, since 1975 in some states, to provide similar service in their state. After 20 years, the IRS has suddenly raised issues of safeguarding confidentiality. These contractors are agents or designees of the state and at the same level of information as state employees performing the same functions. Confidentiality is a high priority for all child support professionals and the information it shares could be utilized to establish or enforce child support obligations. The Department of Defense has contractual arrangements with the information that could affect national security, certainly child support contractors should have access to all information needed to pursue a case. Something is very wrong when an agent of one federal government agency can use roadblocks to obtaining information on delinquent noncustodial parents affecting the ability of a child to receive the support he deserves.

3. IRS Full Collection—The IRS full collection process could be a valuable enforcement tool. It is proven that child support cases receive a low priority when referred to the IRS field office. We suggest that Congress provide funding for staff and systems to implement the collection process and require that child support cases receive priority over all other collection cases.

4. Automated Systems—The new child support data systems being developed nationwide are sorely needed to manage the growing number of delinquent child support cases. These systems will assist child support workers who have caseloads of 500 to 1000 cases to be more productive and enhance their ability to locate delinquent parents for collection. However, the resources of both the private vendors and states have been exhausted in their attempt to make fifty statewide systems operational by the deadline date. Few states will be up and running by October 1, 1995 and the rush to get “something up” by October 1 will produce inferior systems. There are numerous reasons why these projects are in trouble. One of the chief reasons for delay in implementation was that the final federal regulations were not issued until January 1992. Certification requirements were not issued until June 1993. Both the state and the federal government have enormous sums of money committed. The systems should get more worthy. By extending the deadline for one more year to October 1, 1996 without approving any additional funds for furthering the project, state administrators will be allowed the opportunity to make these projects successful. If there is no extension, there is going to be mass confusion on or about October 1, when all states try to bring up these new systems nationwide. It does not make good sense to allow this to occur. We, therefore, recommend an extension of time between the start of the program implementation date of January 25, 1994, over 4,500 acknowledgements have been signed. The acknowledgements are matched against roughly the national instantaneous basis. To date, twenty-five percent (25%) of the signed acknowledgements have been identified as IV-D cases. To be truly successful, the program should be extended to encompass postnatal follow-up to provide yet another opportunity for parents to acknowledge their child and paternity. The IV-D agencies will follow-up with families that receive child support services. However, the Public Health agencies have an opportunity to provide the society through public education and immunization and home health services to reach the parents that are not served by the IV-D program. We suggest that Congress provide a funding mechanism for the public health agencies, Headstart and any other agencies concerned with the welfare of children and families, to provide paternity acknowledgment services to their clients.

Federal regulations require states to periodically review and adjust child support orders utilizing state guidelines. We agree that periodic review is essential to ensure that the children receive the support they deserve and that parents are ordered to pay a fair and reasonable amount. The process by which review and adjustment is accomplished is restrictive and incompatible with states’ Rules of Civil Procedure. States should have more flexibility to determine the cases by which adjustment is accomplished. One alternative might be the award of Cost of Living Allowances (COLA). This method could be automated more evenly applied.

Arkansas has implemented an administrative process to revoke or suspend Commercial Driver’s License of noncustodial parents who are six (6) months behind in their child support obligations. In less than six months of operation, we have collected over $106,000. A total of 107 commercial driver’s licenses have been suspended, 76 have been reinstated and 76 noncustodial parents have signed agreements to pay the delinquent accounts and avoid suspension of their license. One of the methods we use to collect is the independent truck driver. With this program, drivers are detained in weigh stations throughout the nation or at their terminals until the child support issues are resolved. Arkansas has recently extended the license suspension for nonpayment of child support to all business and professional licenses, including driver’s personal plates for vehicles, trucks, and permanent plates. We recommend that all states be required to suspend licenses to include all professional and business licenses, including driver’s personal plates, hunting and fishing licenses, and permanent license plates. We recommend that all states be required to suspend licenses for the purpose of enforcing child support to all business and professional licenses. Recognizing the need for more child support collections, we have adopted some form of license suspension or revocation. To be a deterrent to nonpayers to flee from state to state, we have implemented an administrative process to revoke or suspend Commercial Driver’s License of noncustodial parents who are six (6) months behind in their child support obligations. In less than six months of operation, we have collected over $106,000. A total of 107 commercial driver’s licenses have been suspended, 76 have been reinstated and 76 noncustodial parents have signed agreements to pay the delinquent accounts and avoid suspension of their license. One of the methods we use to collect is the independent truck driver. With this program, drivers are detained in weigh stations throughout the nation or at their terminals until the child support issues are resolved. Arkansas has recently extended the license suspension for nonpayment of child support to all business and professional licenses, including driver’s personal plates for vehicles, trucks, and airplanes registered in the state. States have found that the most successful programs are administrative and automated. We consider requiring state IV-D agencies to implement such administrative programs and provide funding for licensing boards to become automated with electronic links to the IV-D agencies. No one wants to discuss funding in today’s environment. However, there is a direct relationship between the dollars collected and the ratio of child support workers per case. The more workers, the more child support is collected. At some point there would be diminishing returns, but this is not likely in the foreseeable future. Originally, states received 75% FFP plus incentives on collections. Only AFDC cases were mandated. Over the years since the program began, FFP has decreased to 66% plus 6-10% incentives on AFDC cases and 6-10% on non-AFDC cases. Incentives on non-AFDC cases has decreased to 10% for AFDC collections, creating somewhat of a disincentive to work non-AFDC cases. During the same time period that federal financial support for the public health agencies was decreasing, Congress mandated services to non-AFDC clients and Medicaid recipients, increasing caseloads

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dramatically. Caseloads, nationally, have increased by 128% with collections increasing by 345% during the same period, FFP has decreased by 5.7%. States are continually asked to do more with less funding, which has contributed to the growing problem of uncollected child support.

While the intention of the current proposal being considered is to provide some relief and to redistribute federal dollars among states, it is important to understand the effect of the proposed funding scheme. Under the proposed distribution rules, states will lose dollars in the form of retained AFDC collections which provide match dollars for half of their collection costs. Also, currently, states can earn more than 100% funding. Some make a profit. Under the new scheme, the best a state can do is 90% FFP. Since many states pass incentives to the contractors providing services in some local jurisdictions, many local offices will be asked to enter into contracts knowing that they will experience at least a 10% loss each year or state cost will increase. Once again, as Congress attempts to improve the nation's child support problem, a funding cut is proposed. We know that more dollars must be invested in child workers and automation if we are to work more cases and collect more child support. Why then reduce funding to state programs by over $700 million when you want them to do more? If we are to remove custodial parents from welfare and make parents financially responsible for their children, a strong child support system will be essential. A return to the incentives by sufficient 75% FFP plus incentives would be helpful and we recommend that incentives by sufficient to allow for a 100% reimbursement. Any funds over 100% should be returned to the federal government.

We greatly appreciate your interest in child support and the need for a modern system. This is an opportunity for the express views on these very important issues. We join in your commitment to assist the children and families of Arkansas and the nation to realize their full potential. Sincerely,

Judy Jones Jordan,
Administrator.

By Mr. MURkowski (for himself and Mr. Grassley):

S. 688. A bill to provide for the minting and circulation of silver dollar coins; to the Committee on Banking, Housing, and Urban Affairs.

THE U.S. SILVER DOLLAR COIN ACT OF 1995

Mr. MURkowski. Mr. President, today I am introducing legislation that would permit the minting of a .99 silver-plated coin with a likeness of President Dwight D. Eisenhower on the front and a rendering of the Iwo Jima monument on the reverse side of the coin. I am pleased that Senator Grassley is joining in the effort that will provide a boost to our domestic silver mining industry and could serve to reduce the Federal deficit.

Our currency system has not been significantly altered over the past century even though the economy has fundamentally changed. Not long ago, an individual could use one coin—a nickel, dime, or quarter—to purchase a coke from a vending machine or ride a bus. Today, that’s just not possible. Vending machines require two, three, or four coins, or, worse, a dollar bill. And you know how frustrating those dollar bill readers can be on vending machines and Metro fare machines. To make matters worse, a dollar bill reader on a vending machine costs $400 to $500—an utterly unnecessary cost if a dollar coin were available.

According to the Coin Coalition, processing dollar coins instead of dollar bills could cut the transit industry alone more than $124 million a year. The Los Angeles County Metropolitan Transportation Authority would save $3.5 million a year if it did not have to expend the time and labor in processing—unwrinkling dollar bills. Those funds could be used too buy 24 new buses to move people instead of paper. The Chicago Transit Authority does own bill-unfolding, at a cost of $22 per thousand. Processing coins costs just $1.64 per thousand.

In addition, many economists project that a dollar coin could save the Federal Government several million dollars. Although coins cost more to mint than dollar bills to print, coins last far longer. A bill wears out in an average of about 17 months while coins can last 30 years.

Since this is the 50th anniversary of the allied victory in World War II, I believe it is appropriate that the new coin present a likeness of President Eisenhower and the Supreme Commander in Europe. The rendition of the raising of the flag on Mount Surabachi on Iwo Jima has become a symbol of the dedication and valor of our Armed Forces in restoring freedom around the world.

I hope my colleagues will join me in getting this coin modernized enacted into law this year.

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

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

SEC. 1. SHORT TITLE.
This Act may be cited as the “United States Silver Dollar Coin Act of 1995”.

SEC. 2. ONE-DOLLAR COINS.
(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—
(1) in the first sentence, by striking “The dollar,” and inserting “The”; and
(2) by inserting after the fourth sentence the following: “The coin authorized under subsection (a)(1) shall contain not less than one gram of newly mined fine silver.”.

(b) ADJUSTMENTS TO SILVER CONTENT.—Section 5112(c)(1) of title 31, United States Code, is amended by adding at the end the following: “Notwithstanding subsection (b), the Secretary of the Treasury may reduce the silver content of the dollar coin if the Secretary determines that such action is necessary to ensure an adequate supply of dollar coins to meet the needs of the United States.”.

(c) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended—
(1) by striking “the dollar,” and inserting “the half dollar,” and
(2) by striking the fifth and sixth sentences and inserting the following: “The obverse side of the coin shall bear a likeness of President Dwight D. Eisenhower and the reverse side shall bear a rendering of the Iwo Jima Memorial.”.

(d) EFFECTIVE DATE.—Not later than 30 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation the one-dollar coin authorized by section 5112(a)(1) of title 31, United States Code, in accordance with the amendments made by subsections (a), (b), and (c).

By Mrs. MURRAY:

S. 689. A bill to amend the Solid Waste Disposal Act regarding the use of organic sorbents in landfills, and for other purposes; to the Committee on Environment and Public Works.

THE LANDFILL TECHNICAL IMPROVEMENTS ACT OF 1995

Mrs. MURRAY. Mr. President, I am introducing today the Landfill Technical Improvements Act of 1995. This legislation will allow us to maximize technical advances of the last decade in carrying out our Nation’s environmental protection strategy. It will also promote small business and entrepreneurship and help our Nation compete in the global market for new, environment-driven technologies.

By passing the 1984 Hazardous and Solid Waste amendments, Congress required the Environmental Protection Agency [EPA] to issue regulations restricting the disposal of organic absorbents in hazardous waste landfills. In the past decade, however, developments in natural absorbent technologies show more efficiency than traditional sorbents produced for fossil fuel in the fourth sentence, by striking “the dollar, half dollar,” and inserting “the half dollar”: and

For example, a company in Bellingham, WA, manufactures organic sorbents from a local paper mill’s sludge. Sludge recycled into productive use is kept out of landfills. This small company employs 20 to 30 Washingtonians and, with other similar companies across the country, seeks to expand in the marketplace with this new, recycled product.

Normal landfill conditions are anaerobic, and studies have shown that no biodegradation takes place in the anaerobic environment of landfills. Thus, in this anaerobic environment of RCRA landfills, these sorbents will not degrade. These organic absorbents, made totally from reclaimed materials, may actually outperform current chemical absorbents. However, because of the 1984 amendments and subsequent EPA regulations, these absorbents have been effectively shut out from disposing in landfills.

The dispositional issue threatens to undermine the existence of these new technologies, since that which cannot be disposed economically will not be
used. Moreover, innovative and environmentally conscious technologies, such as those developed by this small company in my State, are discriminated against.

The administration has clearly stated its preference such noxious weeds, but this flawed regulation has prejudiced the widespread availability and use of these products. This is to the detriment of our national environmental goals.

This bill remedies this situation, allowing the fullest use of environmentally sound landfill technologies.

By Mr. AKAKA (for himself, Mr. CAMPBELL, and Mr. DORGAN):


1. I am introducing the Federal Noxious Weed Control Improvement Act of 1995.

Senators CAMPBELL and DORGAN have joined me as cosponsors of this bill. The objective of this legislation is to curtail the spread of noxious weeds that is sweeping over productive rangeland, agricultural land, and native ecosystems across America.

I hope my colleagues saw the article on invasive alien species that appeared in the New York Times magazine last November. It vividly described the threats to the tropical ecosystems of Hawaii posed by nonindigenous species. In Hawaii, gorse, ivy gourd, and the banana poka vine are ravaging native forest and rangeland. But Hawaii is not alone in facing this threat. Nearly 200 species of troublesome imported weeds infest the continental United States.

We see evidence of this problem within a few miles of the Capitol. Drive to the edge of the Potomac or through Rock Creek Park and you will see impenetrable mats of hydrilla and honey-suckle. Another weed, kudzu, topples grown trees and smothers shrubs and plants. In New England, Oriental bittersweet and porcelain berry vine cause similar problems. Purple loosestrife has decimated wetlands across the country from Maine to Washington.

Leafy spurge, spotted knapweed, cheatgrass, thistle, salt cedar, and Medusa-head cover millions of acres of grasslands in Montana, Idaho, Oregon, and Washington. All of these weeds are foreign to the United States. Some are toxic to livestock. Others are heavy consumers of water, or fuel forest and rangeland fires. These weeds ruin the grasslands for birds, elk, and grizzly bears. In Montana alone, cattlemen suffer millions of dollars of forage losses due to spotted knapweed. At its current rate of spread, Montana's projected losses due to spotted knapweed could exceed $100 million by the year 2000. Another weed, leafy spurge, occupies over 2.5 million acres in 30 States. Nationwide, $100 million in direct and indirect losses to livestock are attributable to this parasite.

The cost of weed control and losses due to weed infestation are estimated at over $20 billion per year, more than the combined losses for all other pests. Nearly 16 million acres of Federal land are infested with noxious weeds. On Bureau of Land Management lands, weed infestation expands at a rate of 2,000 acres per day. If current trends continue, a quarter of BLM lands in the continental United States could be overrun with weeds by the turn of the century.

At least one hundred of our national parks face serious harm to their natural resources as a result of invasive foreign plants. Everglades National Park and Big Cypress National Preserve are infested with the Everglades melaleuca tree. More than 400,000 acres of the everglades are infested by this tree, and 50 additional acres are consumed each day. Wildlife habitat and water supplies are also threatened by melaleuca in the Florida Wildlife Refuge. Another tree, the Brazilian pepper, is crowding out the mangroves along Florida's southwestern coast. Both of these alien trees make habitat unsuitable for native water birds.

Competition from 25 exotic plants threatens the habitat of rare plants in Great Smoky Mountains National Park. Among the damaging species are stink tree, multi-flora rose, and an imported grass with a scientific name I won't even attempt to pronounce. River margins and rare desert springs in the beautiful slickrock parks of Utah, including Canyonlands and Zion National Parks, as well as in Death Valley National Park, have become overgrown with tamarisk, a tree which literally sucks the water out of the ground, depriving wildlife and native plants of precious water supplies.

Efforts to safeguard private and public land from these threats are grossly inadequate. In 1993, the Congressional Office of Technology Assessment called U.S. efforts to counter the effects of invasive exotic species "a largely uncoordinated patchwork of laws, regulations, policies, and programs.

The Secretary of Agriculture is responsible for preventing noxious weeds from entering the country either accidentally or as intentional imports, as well as for spearheading control efforts for those noxious weeds that have already become established. However, the Federal Noxious Weed Act of 1974 has not been an effective tool to address this problem.

Under current law, the Secretary of Agriculture must wait until a weed is an established, documented nuisance before action can be taken. That's like waiting until the cows have run away before you close the barn door. For example, tropical soda apple, a plant in the nightshade family, was introduced from Brazil into pastures in Florida. It was first observed in 1987 and now occupies more than 400,000 acres in Florida. Although cattle cannot eat the plant, because its sharp spines, seeds from this invasive weed easily contaminate hay and other forages. Tropical soda apple presents a particularly difficult control problem because seeds are passed through cattle manure. In Mississippi, Alabama, and Georgia, more than 20 outbreaks have been linked to cattle purchased in Florida. Tropical soda apple can also be transported in commercially packaged manure used for gardening. Despite the danger and the relative ease of dealing with the original infestation, it took the U.S. Department of Agriculture 8 years to declare it a noxious weed. During that time, the problem has become so widespread that containment may be beyond hope.

To correct weaknesses in the Federal Noxious Weed Act of 1974, my bill will grant emergency authority to prohibit the entry of foreign weeds that have not been formally added to the Federal noxious weed list. Weeds could also be added to the list through a petition process. Also, the bill would prevent the interstate movement of Federal noxious weeds across State lines except under permit. Finally, this legislation would establish a Noxious Weed Technical Advisory Group to evaluate weed species, develop appropriate classification criteria for noxious weeds, and make recommendations to implement the act.

As the hearings that I chaired during the 103d Congress clearly demonstrated, the lack of coordination between Federal agencies that are responsible for the control of alien weeds is a serious problem. These agencies, having jurisdiction over several Federal agencies located in 8 different Cabinet departments have responsibility for pest control. They enforce more than a dozen major laws, and a host of minor ones.

With so many statutes and so many agencies, Federal policy resembles a piece of swiss cheese, and foreign, exotic pests are streaming through the holes in policy and enforcement. Hawaii and other States suffer the consequences of piecemeal Federal enforcement.

I ask my colleagues to support the passage of this bill. I hope that we can consider this legislation as part of the 1995 farm bill. All of our constituents will benefit from a stronger and more secure foundation for agriculture and conservation of our natural resources.

I ask unanimous consent that the text of the Federal Noxious Weed Control Improvement Act of 1996 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:
April 6, 1995

S. 600

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 “Federal Noxious Weed Control Improvement Act of 1995.”

TITLE I—NOXIOUS WEEDS

SEC. 101. IMPROVEMENT IN THE EXCLUSION, ERADICATION, AND CONTROL OF NOXIOUS WEEDS IN THE UNITED STATES.

The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.) is amended to read as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Foreign and Federal Noxious Weed Act’’.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—MOVEMENT OF FEDERAL NOXIOUS WEED INTO OR THROUGH THE UNITED STATES

Sec. 101. Movement of Federal noxious weed into or through the United States.

Sec. 102. Identification of Federal noxious weeds.

Sec. 103. Quarantines.

Sec. 104. Measures to prevent dissemination of foreign and Federal noxious weeds.

Sec. 105. Search of persons, premises, and conveyances.

Sec. 106. Penalties.

Sec. 107. Cooperation with other Federal, State, and local agencies.

Sec. 108. Authorization of appropriations.

TITLE II—MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LANDS

Sec. 201. Definitions.


Sec. 203. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Effect on inconsistent State and local laws.

Sec. 302. Regulations.

SEC. 2. FINDINGS.

Congress finds that—

(1) the importation or introduction in interstate commerce of foreign noxious weeds, except under controlled conditions, is detrimental to the environment, agriculture, and commerce of the United States and to the public health in that the growth and spread of weeds in the United States—

(A) interfere with the growth of useful plants;

(B) clog waterways and interfere with navigation;

(C) cause disease or have other adverse effects on the environment; and

(D) directly or indirectly interfere with natural resources, agriculture, forestry, native ecosystems, and the management of ecosystems;

(2) uncontrolled distribution within the United States of foreign noxious weeds, after importation or introduction of the weeds, has similar detrimental effects;

(3) the distribution of noxious weeds poses long-term problems for agriculture, and native or natural ecosystems and ecosystem management, including—

(A) economic injury to natural resources, agriculture, and the economy of the United States;

(B) impedence of interstate and foreign commerce;

(C) diminishment of biodiversity in native ecosystems of the United States; and

(D) in light of the adverse consequences of uncontrolled importation or distribution of foreign noxious weeds, the regulation of foreign noxious weeds as provided in this Act is necessary to protect interstate and foreign commerce and the public welfare.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADVISORY PANEL.—The term ‘‘Advisory Panel’’ means the Noxious Weed Technical Advisory Panel established under section 102(e).

(2) AUTHORIZED INSPECTOR.—The term ‘‘authorized inspector’’ means an employee of the Department, or an employee of any other agency of the Federal Government or of any State or other governmental agency that is cooperating with the Department in the administration of this Act, who is authorized by the Secretary to perform assigned duties under this Act.

(3) DEPARTMENT.—The term ‘‘Department’’ means the United States Department of Agriculture.

(4) EMERGENCY.—The term ‘‘emergency’’ means an unforeseen combination of circumstances or the resulting state that calls for immediate action, as determined by the Secretary.

(5) FEDERAL NOXIOUS WEED.—The term ‘‘Federal noxious weed’’ means a foreign noxious weed that is identified as appropriate for control under this Act and included in the Federal noxious weed list established pursuant to a regulation issued under section 102(e).

(6) FEDERAL NOXIOUS WEED LIST.—The term ‘‘Federal noxious weed list’’ means the list prepared by the Secretary that contains the names of all Federal noxious weeds.

(7) FOREIGN NOXIOUS WEED.—The term ‘‘foreign noxious weed’’ means a plant species, including all reproductive parts of the species, that the Secretary determines—

(A) is of foreign origin;

(B) has directly or indirectly interfere with an agroecosystem, native ecosystem, or the management of an ecosystem, or cause injury to public health; and

(C)(i) has not been introduced into the United States;

(ii) is determined by the Secretary to be likely to be introduced into the United States;

(iii) is new to the United States; or

(iv) has not expanded beyond susceptibility to containment within a geographic region or ecological range of the United States.

(8) INTERFERE.—The term ‘‘interfere’’ means to injure, harm, or impair an agroecosystem or native or natural ecosystem in the environment or commerce.

(9) INTERSTATE MOVEMENT.—The term ‘‘interstate movement’’ means movement from any State into or through any other State.

(10) MOVE.—The term ‘‘move’’ means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport.

(11) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Agriculture or a designee of the Secretary.

(12) STATE.—The term ‘‘State’’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

(13) UNITED STATES.—The term ‘‘United States’’, when used in a geographic sense, means all of the States and territories and possessions.

(14) in light of the adverse consequences of uncontrolled importation or distribution of foreign noxious weeds, the regulation of foreign noxious weeds as provided in this Act is necessary to protect interstate and foreign commerce and the public welfare.

SEC. 102. IDENTIFICATION OF FEDERAL NOXIOUS WEEDS.

(a) FEDERAL NOXIOUS WEEDS LIST.—The Secretary shall maintain a Federal noxious weed list containing the names of all Federal noxious weeds identified by the Secretary under subsection (b).

(b) INCLUSION BY REGULATION.—

(1) REGULATION PROCESS.—

(A) IN GENERAL.—Except as provided in paragraph (2), a plant species may be identified as a Federal noxious weed and included in the Federal noxious weed list only pursuant to a regulation issued by the Secretary.

(B) NOTICE AND HEARING.—The regulation shall be issued only after publication of a notice of the proposed regulation and, when requested by any interested person, a public hearing on the proposed regulation.

(C) BASIS.—The regulation shall—

(i) be based on the information received at any such hearing, comments, and other information available to the Secretary; and

(ii) require a determination by the Secretary that—

(I) the plant is a foreign noxious weed (within the meaning of section 3(7)); and

(II) the dissemination of the weed in the United States may reasonably be expected to interfere with natural resources, agriculture, forestry, or a native ecosystem or the management of an ecosystem, or cause injury to public health.

(2) EMERGENCY DESIGNATION.—

(A) IN GENERAL.—In an emergency, the Secretary may temporarily designate a plant species as a Federal noxious weed if the Secretary determines that the plant species meets the definition of a foreign noxious weed.

(B) DURATION.—The temporary designation shall remain in effect until the Secretary initiates and completes the regulation process in accordance with paragraph (1).

(C) NOTIFICATION.—The Secretary shall provide notice of the temporary designation to interested parties, including importers, State agencies, and the general public, at the time the emergency is declared.

(3) ADDITIONS TO AND REMOVALS FROM NOXIOUS WEED LIST.—
"(1) Petition process.—
"(A) In general.—Any interested person may petition the Secretary to add a plant species to, or remove a plant species from, the Federal noxious weed list.
"(B) Determination.—To the maximum extent practicable, not later than 90 days after receiving a petition, the Secretary shall determine whether the petition presents an assessment of potential damage based on scientific information indicating that the plant species involved should be added to or removed from the Federal noxious weed list.
"(C) Publication.—The Secretary shall publish each determination made under this paragraph in the Federal Register.

"(2) Review by advisory panel.—If the Secretary determines that a petition presents scientific information described in paragraph (1)(B), and after considering the advice of the Advisory Panel, the Secretary shall forward the petition to the Advisory Panel for review and advice of the panel.

"(3) Findings.—Not later than 1 year after receiving a petition under paragraph (1) determined to present scientific information described in paragraph (1)(B), and after considering the advice of the Advisory Panel, the Secretary shall make 1 of the following findings:

"(A) The petitioned action is not warranted.

"(B) The petitioned action is warranted, in which case (except as provided in subparagraph (C)) the Secretary shall commence the procedure described in subsection (b)(1) to add the plant species involved to, or remove the plant species from, the Federal noxious weed list.

"(C) The petitioned action is warranted, except that

"(i) immediate promulgation of a regulation implementing the petitioned action is precluded by pending proposals to identify Federal noxious weeds; and

"(ii) expeditious progress is being made to add the plant species to the Federal noxious weed list.

"(4) Publication.—The Secretary shall publish a finding made under paragraph (3) in the Federal Register, with a description and evaluation of the reasons and data on which the Secretary based the finding.

"(5) Classification system and integrated management plan.—

"(A) In general.—The Secretary shall classify and develop a classification system to describe the status and action levels for foreign noxious weeds and Federal noxious weeds. The classification system shall include the identification of foreign noxious weed or Federal noxious weed, the current geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

"(B) Temporarily quarantine.—The Secretary may establish a classification system to describe the status and action levels for foreign noxious weeds and Federal noxious weeds. The classification system shall include

"(i) the identification of foreign noxious weeds; and

"(ii) the development of integrated management plans; and

"(iii) other matters relating to the administration of this Act; and

"(C) Petition for addition to noxious weed list.—The Secretary any foreign noxious weed that should be added to or deleted from the Federal noxious weed list.

"(2) Members.—The members of the Advisory Panel appointed by the Secretary from among persons who have professional or working knowledge of agroecosystems or native or natural ecosystem management. In appointing the members, the Secretary shall ensure that there is 1 representative from each of the North Central, Northeastern, Southern, Southwestern, and Western regions of the United States, and that each of the following entities is represented:

"(A) An environmental organization.

"(B) A State agency with weed management responsibility.

"(C) A land grant college or university.

"(D) A weed science society.

"(E) A trade association.

"(F) An ecologist.

"(3) Ex officio members.—The Advisory Panel shall also include a representative of each of the following entities, each of whom serves as ex officio member of the Advisory Panel:

"(A) The Animal and Plant Health Inspection Service of the Department.

"(B) The Agricultural Research Service of the Department.


"(D) A Federal agency with land management responsibilities.

"(E) A member of the Advisory Panel who is not a Federal employee shall receive compensation while on official duty or duties.

"(F) The Secretary in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

"(5) Annual report.—The Advisory Panel shall submit to the Secretary, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the activities of the Advisory Panel during the preceding year.

"SEC. 103. QUARANTINE ORDER.—

"(a) In general.—The Secretary may establish by regulation such quarantines as are necessary to prevent the introduction or distribution, or control the distribution of, a foreign noxious weed or Federal noxious weed.

"(b) Temporary Quarantine.—

"(1) Authorized.—If the Secretary has reason to believe that an infestation of a foreign noxious weed exists in any State, the Secretary may by order—

"(A) temporarily quarantine the State or a portion of the State; and

"(B) prohibit the interstate movement of persons, products, means of conveyance, or articles, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed subject to disposal under subsection (a) to treat, destroy, or otherwise dispose of the product, article, or means of conveyance or of a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(2) Method of disposal.—The owner of the product, article, or means of conveyance subject to subsection (a) may dispose of such product, article, or means of conveyance at any time after the order is renewed by the Secretary.

"(c) Prohibitions.—It shall be unlawful for any person to move interstate or intrastate from a quarantined area any product, article, or means of conveyance specified in the quarantine order on foreign noxious weed or Federal noxious weed, except in accordance with the regulation or order.

"(d) Relationship of quarantines to other activities.—The establishment of a quarantine shall not be required in order for the Secretary to regulate the interstate movement, sale, or distribution of a foreign noxious weed or Federal noxious weed.

"SEC. 104. MEASURES TO PREVENT DISSEMINATION OF FOREIGN AND FEDERAL NOXIOUS WEEDS.—

"(a) Emergency Disposal.—

"(1) Dispositional authority.—Subject to subsection (c), the Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(2) Methods requiring disposal.—

"(1) Disposal orders.—

"(a) In general.—Subject to subsection (c), the Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(b) Process.—In the case of a defective product, the product shall be disposed of in such manner as the Secretary considers appropriate.

"(c) Destruction, export, or return as treatment for drastic action.—

"(1) In general.—The Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(2) Methods requiring disposal.—

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"(2) Methods requiring disposal.—

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"(b) Process.—In the case of a defective product, the product shall be disposed of in such manner as the Secretary considers appropriate.

"(c) Destruction, export, or return as treatment for drastic action.—

"(1) In general.—The Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(2) Methods requiring disposal.—

"(a) In general.—The Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed, without cost to the Federal Government in such manner as the Secretary considers appropriate.

"(b) Process.—In the case of a defective product, the product shall be disposed of in such manner as the Secretary considers appropriate.
destruction or disposal, to recover just com-
pen sation for the destruction or disposal (other than compensation for loss due to
delays incident to determining the eligi-
bility of the product, article, or conveyance
for movement under this Act), if the owner
establishes that the destruction or disposal
was not authorized under this Act.

SEC. 103. SEARCH OF PERSONS, PREMISES, AND
GOODS. —
(a) WARRANTLESS SEARCHES. — An author-
ized inspector shall have the authority, with a warrant, to
stop any person or means of conveyance moving into or through the United
States, and to inspect any product or article of any
character moving into or through the United
States, if the authorized inspector has prob-
able cause to believe that the person or
means of conveyance is moving a foreign
noxious weed or Federal noxious weed regu-
lated under this Act, or a product or article
containing a foreign noxious weed or Federal
noxious weeds regulated under this Act.

(b) WARRANT SEARCHES. —
(1) IN GENERAL. — An authorized
inspector shall have the authority, with a warrant, to
to enter any premises in the United States
for purposes of an inspection or other action
necessary to carry out this Act.

(2) ISSUANCE OF WARRANTS. — A judge of the
United States of a court of record of
any State, or a United States magistrate
judge, may within the jurisdiction of
the judge or magistrate judge, on proper oath or
affidavit, and upon probable cause to be-
lieve that there are on certain premises any
product, article, or means of conveyance
contaminated with a foreign noxious weed or
Federal noxious weed regulated under this Act, issue a warrant for the entry of the
premises for purposes of any inspection or
other action necessary to carry out this Act,
except as otherwise provided in section 107.

(3) EXECUTION OF WARRANTS. — The war-
rant may be executed by any authorized in-
spector or any United States marshal.

SEC. 106. PENALTIES. —
(a) IN GENERAL. — Any person who know-
ingly violates section 101 or 103, or any regu-
lation issued to carry out section 101 or 103,
shall be fined not more than $100,000 or impris-
oned not more than 1 year, or both.

(b) PECUNIARY GAIN OR LOSS. — If any per-
son derives pecuniary gain from an offense
described in subsection (a), or if the person
results in pecuniary loss to a person other
than the defendant, the defendant may be
fined not more than an amount that is the
greater of twice the gross gain or twice the
gross loss, unless imposition of a fine under
this subsection would unduly complicate or
prolong the imposition of a fine or sentence
under subsection (a).

SEC. 107. COOPERATION WITH OTHER FEDERAL,
STATE, AND LOCAL AGENCIES. —
(a) COOPERATION AUTHORIZED. — The Secre-
tary shall cooperate with other Federal agencies, agen-
cies of States and political subdivisions of States,
agriculture producer associations and similar organizations, and individuals in
conveyance, Secretary of Defense, Secretary of
Energy, Secretary of the Interior, and Sec-

ratory of Transportation, acting through the
Federal Interagency Committee for the Man-
grazing strategies or improving wildlife or
livestock habitat.

(5) INTERDISCIPLINARY APPROACH. — The
term ‘interdisciplinary approach’ means an
approach to making decisions regarding the
containment or control of an undesirable
plant species or group of species, that:
(A) includes participation by personnel of
Federal or State agencies with experience in
areas including weed science, range science,
wildlife biology, land management, and for-
etry; and
(B) includes consideration of—
(i) the most efficient and effective meth-
od of containing or controlling the undesir-
able plant species over the long term;
(ii) studies scientific and current tech-
nologies;
(iii) the physiology and habitat of a plant
species and the associated environment of
the plant species; and
(iv) the economic, social, ecological, and
human health consequences of carrying out the
actions described in subparagraphs (I) and (II)

(6) STATE AGENCY. — The term ‘State agency’
means a State department of agriculture,
or other State agency or political subdivi-
sion responsible for the administra-
tion or implementation of laws of the
State regulating undesirable plants.

(7) UNDESIRABLE PLANT. — The term ‘unde-
sirable plant’ means a plant species that is
classified as undesirable, noxious, harmful,
exotic, injurious, or poisonous, pursuant to
Federal law, as an endangered or threatened species under the
1531 et seq.) shall not be designated as an
undesirable plant under this Act, and the
term shall not include a plant indigenous to
an area where control measures are to be
taken under this title.

SEC. 109. FEDERAL AGENCY INVOLVEMENT.
(a) DUTIES OF AGENCIES. — The head of each
Federal agency shall—
(1) designate an office and person ade-
quately trained in the management of
undesirable plants to develop and coordinate an
undesirable plant management program for
the control of undesirable plants on Federal
lands;
(2) establish and adequately fund an
undesirable plant management program through the budgetary process of the
agency;
(3) enter into integrated cooperative agreements with State agencies regarding
the management of undesirable plants on
Federal land under the jurisdiction of the
agency; and
(4) establish integrated management sys-
tems to control or contain undesirable
plants targeted under cooperative agree-
ments.

(b) ENVIRONMENTAL IMPACT STATE-
MENTS. — If an environmental assessment or
environmental impact statement is required
under the National Environmental Policy
Act of 1969 (42 U.S.C. §21 et seq.) to carry
out an integrated management system to
manage undesirable plants under this sec-
tion, a Federal agency shall complete the
assessment or statement not later than 1 year
after the requirement for the assessment or
statement is determined.

(c) COOPERATIVE AGREEMENTS WITH STATE AGEN-
CIES. —
(1) IN GENERAL. — A Federal agency shall
enter into a cooperative agreement with a
State agency to coordinate the management of
undesirable plants on Federal land under
the jurisdiction of the Federal agency.

(2) CONTENTS OF PLAN. — A cooperative
agreement entered into pursuant to para-
graph (1) shall—
(A) prioritize and target undesirable
plants or groups of undesirable plants to
be controlled or contained within a specific geo-
graphic area;
(B) describe the integrated management
system to be used to contain or control the
targeted undesirable plants or group of unde-
sirable plants; and
(C) describe the means of carrying out the
integrated management system, define the
duties of the Federal agency and the State
agency in carrying out the system, and es-
tablish timelines for the initiation and com-
pletion of the tasks specified in the sys-
tem.

(4) EXCEPTION. — A Federal agency shall
not be required to carry out programs on
Federal land under this section unless simi-
lar programs are being carried out generally
to State or private land in the same area.

(c) COORDINATION. —
(1) IN GENERAL. — The Secretary of Agri-
culture, Secretary of Defense, Secretary of
Energy, Secretary of the Interior, and Sec-

ratory of Transportation, acting through the
Federal Interagency Committee for the Man-
grazing strategies or improving wildlife or
livestock habitat.

(5) INTERDISCIPLINARY APPROACH. — The
term ‘interdisciplinary approach’ means an
approach to making decisions regarding the
containment or control of an undesirable
plant species or group of species, that:
(A) includes participation by personnel of
Federal or State agencies with experience in
areas including weed science, range science,
wildlife biology, land management, and for-
etry; and
(B) includes consideration of—
(i) the most efficient and effective meth-
od of containing or controlling the undesir-
able plant species over the long term;
(ii) studies scientific and current tech-
nologies;
(iii) the physiology and habitat of a plant
species and the associated environment of
the plant species; and
(iv) the economic, social, ecological, and
human health consequences of carrying out the
actions described in subparagraphs (I) and (II)

(6) STATE AGENCY. — The term ‘State agency’
means a State department of agriculture,
or other State agency or political subdivi-
sion responsible for the administra-
tion or implementation of laws of the
State regulating undesirable plants.
and Exotic Weeds, in consultation with the appropriate Assistant Secretaries, shall—

(A) identify regional priorities for noxious weed control in cooperation with the appropriate State Secretaries;

(B) incorporate into technical guides regionally appropriate technical information; and

(C) disseminate the technical information to interested State, local, and private entities.

(2) Costs.—The Secretary shall provide costs share assistance to State and local agencies to manage noxious weeds in an area in which a majority of landowners in the area agree to participate in a noxious weed control program.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(a) $5,000 for the year 1994, to be available for administration of this Act.

(b) $20,000 for each of fiscal years 1995 through 1998, to be available for administration of this Act.

(c) REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 202. EFFECT ON PREVIOUS LISTINGS.

The term under the heading “ENFORCEMENT OF THE PLANT-QUARANTINE ACT:” under the heading “MISCELLANEOUS” of the Act of March 4, 1915 (commonly known as the “Terminal Inspection Act”) (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended by inserting after the second sentence the following: “On the request of a representative of a State, a Federal agency shall act on behalf of the State to obtain a warrant to inspect mail to carry out this paragraph.”

By Mr. SHELBY (for himself, Mr. STEVENS, Mr. INOUYE, Mr. THURMOND, Mr. MACK, and Mr. HEFLIN): S. 691. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under the Medicare program: to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans’ Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Finance.

Mr. SHELBY. Mr. President, today I am introducing the Prostate Cancer Diagnosis and Treatment Act of 1995. Prostate cancer is the leading cancer and the second leading cause of cancer deaths among American men. Over 215,000 Americans will be diagnosed with the disease this year and over 40,000 men will die from it.

Despite recent advances in the early detection and treatment of prostate cancer, we cannot prevent the number of deaths continue to rise. Prostate cancer is as common today in men as breast cancer is in women, and the death rates for the two diseases are similar as well. Over this decade, prostate cancer cases and deaths are expected to continue their rapid rise—

with cases increasing by 37 percent and deaths by 90 percent between 1985 and 2000.

Early detection has been greatly improved with the development of the prostate specific antigen [PSA] test—a simple and inexpensive blood test for the presence of prostate cancer. As a result, the American Urological Association and the American Cancer Society now recommend that men aged 50 and over get an annual screening with the PSA test. Treatment has been improved through new surgical techniques that remove the cancer without disastrous side effects, and through drug therapy that can extend life expectancy and improve patient comfort for patients with advanced stage cancer.

These improvements have meant the difference between life and death for many men. The ability to detect prostate cancer in the first stage of the disease has made it possible to surgically remove the cancer when it is still confined to the prostate. Over 70 percent of patients treated in this way never have a recurrence of the disease. Waiting until the second stage or later, which is necessary under previous techniques, greatly increases the risk that the cancer has spread, with small hope for a cure.

I know how important it is to get screening and early treatment for prostate cancer—I am a prostate cancer survivor. I had a PSA test—I had a positive score—I had my prostate removed—and I am here to tell about it as a result. A number of my colleagues in this Chamber—Senator DOLE, Senator STEVENS, among them—are here with us today because their prostate cancer was spotted early and treated effectively. General Schwarzkopf, the hero of the gulf war, is another man nearly felled by prostate cancer, but saved through screening and surgery. General Schwarzkopf has become a national spokesman for prostate cancer detection. General Schwarzkopf and all of us in Congress are lucky to have the kind of insurance coverage we do through the Military and Federal Employees Health Benefit plans and the Veterans Health programs. Medicare covers the old diagnostic test but does not provide for an annual PSA test. The Veterans Health services could provide annual tests for their resident and in-patient populations, but rarely do they order the tests or the follow-on surgery.

Both of these programs cover medical facilities and doctors at Walter Reed Hospital among other places.

We can all be sure we get our annual PSA test and any treatment we may need.

The tragedy is that 13 million American men who are at the highest risk for this disease do not have health insur ance coverage for the best early detection methods and drug therapies. They do not have it because we, the Congress, have not seen fit to provide it for them through the Medicaid and Veterans Health programs. Medicare covers the old diagnostic test but does not provide for an annual PSA test. The Veterans Health services could provide annual tests for their resident and in-patient populations, but rarely do they order the tests or the follow-on surgery.

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yet receives one-fourth as much research money. This is a serious oversight that we should correct to increase the pace of research and develop conclusive evidence on what really works and does not work in treating prostate cancer.

The Prostate Cancer Diagnosis and Treatment Act of 1995 would take three important steps to halt the progression of this disease. First, it would nearly double spending on research to develop more effective treatments of the disease. Second, it would make PSA tests available under the Medicare and Veterans Health programs. Third, it would extend Medicare and Veterans Health coverage for prostate cancer drugs to cover the costs of radiation therapy including oral drugs that can significantly extend and improve the lives of prostate cancer victims.

Mr. President, it is important that we increase our efforts to combat this deadly cancer and address these deficiencies in our Federal health coverage and research programs. I urge my colleagues to join me in sponsoring the legislation that could make a difference for thousands of men who might otherwise have suffered greatly or died an untimely death from prostate cancer.

By Mr. KYL:

S. 694. A bill to prevent and punish crimes of sexual and domestic violence, to strengthen the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

THE SEXUAL VIOLENCE PREVENTION AND VICTIMS' RIGHTS ACT

Mr. KYL. Mr. President, I ask unanimous consent that the summary of the Sexual Violence Prevention and Victims' Rights Act be printed in the Record.

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

PROVISIONS OF THE SEXUAL VIOLENCE PREVENTION AND VICTIMS' RIGHTS ACT OF 1995

Title II—Sexual Violence, Domestic Violence, and Offenses Against the Family

Sec. 101. Right of the victim to restitution.

Sec. 102. Right of the victim to an impartial jury.

Sec. 103. Right of the victim to fair treatment in legal proceedings.

Sec. 104. Rebuttal of attacks on the victim's character.

Sec. 105. Use of notice concerning release of offender.

Sec. 106. Balance in the composition of rules committees.

Sec. 107. Victim's right of allocution in sentencing.

Sec. 108. Extends the right of victims to address the court concerning the sentence to all criminal cases. Current law provides such a right for victims in violent crime and sexual abuse cases, though the offender has the right to make an allocution statement in all cases.

TITLE II—SEXUAL VIOLENCE, DOMESTIC VIOLENCE, AND OFFENSES AGAINST THE FAMILY

Sec. 201. Implementation of evidence rules for sexual assault and child molestation cases.

Sec. 202. HIV testing of defendants in sexual assault cases.

Sec. 203. Clarifying amendment to extraterritorial child pornography offense.

Sec. 204. Evidence of defendant's disposition towards victim in domestic violence cases.

Sec. 205. Battered women's syndrome evidence.

Sec. 206. Death penalty for fatal domestic violence offenses.

Sec. 207. Capital punishment under the federal interstate domestic violence offenses, for cases in which the offender murders the victim.

By Mrs. KASSEBAUM (for herself and Mr. DAVIS): S. 695. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

THE TALLGRASS PRAIRIE NATIONAL PRESERVE ACT

Mrs. KASSEBAUM. Mr. President, I rise today with my colleague from Kansas, Senator DOLE, to introduce legislation to create a tallgrass prairie preserve in the Flint Hills of Kansas.

At a time when some in Congress are asking hard questions about the cost and role of some units in the national park system, one may wonder why I am proposing the addition of another preserve to an already overburdened system. I am aware and sympathetic to those who complain that some members of Congress have taken a parochial interest in the park system, passing bills to create parks and historical sites more for their economic benefits to neighboring communities than because the area is nationally significant, either naturally or historically.

James Ridenour, former director of the National Park Service under President Bush, calls this the "thinning of the blood" of park system and points out that we are spreading limited personnel and scarce funds too thin. As a consequence, we have been spending an increasing percentage of Federal dollars on sites with questionable significance and devoting less to protecting the Nation's natural and historic resources. However, Mr. Ridenour strongly supports the bill being introduced today as a unique solution to the creation of an important addition to the park system.

This legislation was crafted in response to these concerns. It creates for the first time a private-public partnership, where capital and a conservation organization is combined with limited funds from the Federal Government to create a national preserve open to the American public. We will be doing this at a fraction of the cost that the Federal Government would otherwise have to purchase the property for preservation. By taking this approach, we will be preserving for the first time an ecosystem that is found nowhere in the park service system. The approach taken in this bill is the kind of new thinking we in Congress must explore if we are to wisely spend scarce Federal dollars to protect important natural and historic areas in the future.

For those who have never been to the Flint Hills of Kansas, let me explain why this area is so unique and special. From Nebraska to Oklahoma there remains a narrow swath of tallgrass prairie—the remnants of a once vast tallgrass prairie ecosystem that covered 400,000 square miles from Ohio to the Rocky Mountains, from Canada to Texas. Today, less than 1 percent of this ecosystem remains, much of it in the Flint Hills, which are too steep and too rocky to farm.

There is no better example of this tallgrass prairie ecosystem in the Flint Hills than the 10,894-acre Spring Hill Ranch in Chase County. Hundreds of species of native plants and grasses grow on the ranch. Nearly 200 kinds of
birds, 29 species of reptiles and amphibians, and 31 species of mammals can be found on the property. The National Park Service, after an extensive survey of the property in 1991, concluded the property was nationally significant because it contains rare wildlife and extensive prairie remnants that include the largest number of hill prairie in existence. The National Park Service, after receiving the property, preserved it as a unit of the national park system.

Beyond the natural splendor of the ranch, the property includes a house, barn, and several outbuildings listed on the National Register of Historic Places because of their unique second empire architectural style. Each of these buildings was built in the 1880s from hand-cut cottonwood limestone quarried in the area. They illustrate the elegance and style of the ranch’s first owner, a local cattle baron. A mile way from the house, over a rise in the land, also sets a one-room prairie school built in 1882.

For the past 4 years, I have been involved in efforts to preserve this ranch and open it to the public. Last year, the National Park Trust, a private conservation organization, purchased the ranch and has been working with members of the congressional delegation and officials with the Department of the Interior to develop legislation to preserve the ranch through a private-public partnership. The results, which have come only after painstaking negotiations with the Trust, Interior officials, and representatives of Kansas’ agricultural and conservation groups, is reflected in the legislation I am introducing today.

The Tallgrass Prairie National Preserve Act will allow the National Park Service to purchase or accept donations of up to 180 acres, or less than 2 percent of the ranch. In meetings I have had with Secretary of the Interior Bruce Babbitt, he has stated that he would like to see the National Park Service own, maintain, and operate this historic core area, which includes the house, barn, and outbuildings.

The rest of the ranch will continue in private ownership, but the Secretary of the Interior is given the authority in this bill to enter into a cooperative agreement with the National Park Trust to provide interpretative and resource management assistance for the rest of the ranch, as well as police and emergency services.

What is different about this proposal and why it makes such sense from the standpoint of the Federal Government is that it allows a private people who have access to and use of the 10,894-acre ranch for the cost of operating a 180-acre site. The National Park Trust, in a letter that I will ask be printed in the RECORD following my statement, has committed to the National Park Service an additional $1 million toward the cost of the ranch.

In addition to the care that was taken to draft this private-public partnership, equal care was given to address the legitimate concerns of area ranchers. In this bill, the National Park Service ownership is limited to 180 acres of the ranch, and in situations, where it is permitted. Language was incorporated into the bill to address concerns regarding fence maintenance and to require compliance with State noxious weed, pestilence, animal health, and water laws. The bill establishes an advisory committee consisting of conservationists, landowners, local community officials, and range management specialists to help determine how the ranch should be managed. The bill also incorporates language that requires Federal Government to be a good partner with neighboring communities and work cooperatively to deliver emergency and other services.

Mr. President, we have a wonderful opportunity to protect for future generations a portion of the tallgrass prairie—the only ecosystem not currently represented in the National Park System. Passage of this bill will give the public an opportunity to enjoy and explore this beautiful area and grow to appreciate its history and importance.

I ask unanimous consent that a letter from James Ridenour be included in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill and other material be printed in the RECORD.

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

S. 695

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 “Tallgrass Prairie National Preserve Act of 1995”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas.

(2) In 1991, the National Park Service conducted a survey of the Spring Hill Ranch, located in the Flint Hills of Kansas.

(3) Such study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and

(B) is suitable and feasible as a potential addition to the National Park System.

(4) The National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this Act; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for emergency and other services.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas.

(2) To preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 3. DEFINITIONS.

The term “Secretary” means the Secretary of the Interior.

The term “Trust” means the National Park Trust, Inc. (which is a District of Columbia nonprofit corporation), or any successor-in-interest, subsidiary, affiliate, or legal representative of the National Park Trust, Inc. that possesses legal or equitable ownership or management rights with respect to the National Park System.

The term “Preserve” means the National Park Service prairie National Preserve established under section 4.

The term “Secretary” means the Secretary of the Interior.

The term “Advisory Committee” means the Advisory Committee established under section 7.

The term “trust” means the National Park Trust, Inc. which is a District of Columbia nonprofit corporation, or any successor-in-interest, subsidiary, affiliate, or legal representative of the National Park Trust, Inc. that possesses legal or equitable ownership or management rights with respect to the Spring Hill Ranch.

SEC. 4. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is hereby established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands, waters, and interests therein, including approximately 10,894 acres, generally depicted on the map entitled “Boundary Map, Flint Hills Prairie National Monument” numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L-106 at pages 328 through 339, inclusive. In the case of any difference between such map and legal description, such legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making such minor changes in the map or legal description, the Secretary is directed to make such minor changes. The map shall be on file.
and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 5. ADMINISTRATION OF NATIONAL PRE-

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this Act, the cooperative agreements described in section (f)(1), and the Act (as described in section (b)(4)) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 460l et seq.).

(b) APPLICATION OF REGULATIONS.—The regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply within the boundaries of the Preserve.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this Act relating to the Preserve, the Secretary may, with the consent of the landowner—

(1) construct, reconstruct, rehabilitate, or develop essential facilities on real property that is not owned by the Federal Government and is located within the Preserve; and

(2) establish programs in connection with the Preserve.

(d) LIABILITY.—

(1) LANDOWNERS.—Notwithstanding any other provision of law, no person who owns any land or interest in land within the Preserve shall be liable for injury to, or damages suffered by, any other person who is injured or damaged while upon the land within the Preserve if—

(A) such injury or damages result from any act or omission of the Secretary or any officer, employee, or agent of the Secretary; or

(B) such liability would arise solely by reason of the ownership by the defendant of such land or interest in land and such injury or damages are not proximately caused by the wanton or willful misconduct of the defendant.

(2) LIABILITY OF UNITED STATES AND OFFI-

CERS AND EMPLOYEES OF THE UNITED STATES.—(A) Nothing in this subsection or in any other provision of this Act may be construed to exempt the Federal Government, or any State or political subdivision of the Federal Government, from any liability for any act or omission for which the Federal Government, or such officer or employee, as the case may be, would otherwise be liable under any applicable provision of law.

(B) Nothing in this subsection or in any other provision of this Act may be construed to immunize the Federal Government, or any officer or employee of the Federal Government, any liability for any act or omission for any other person or entity for which the Federal Government, or such officer or employee, or the case may be, would otherwise be liable under any applicable provision of law.

(e) FEES.—Notwithstanding any other provision of law, the Preserve shall be considered a designated unit of the National Park System, including for the purposes of charging entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary is authorized to expend Federal funds for the cooperative management and protection for furnishing the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use. The Secretary may enter into one or more cooperative agreements with public or private organizations or institutions to further the purposes of this Act (as specified in section (b)(5)), including entering into a memorandum of understanding with the appropriate official of the county in which the Preserve is located to provide for such services as law enforcement and emergency services.

(2) DONATIONS.—Notwithstanding any other provision of law, the Secretary may solicit, accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this Act.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the termination date of the third full fiscal year beginning after the date of establishment of the Preserve, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee established under section 7; and

(B) adjacent landowners, appropriate officials of the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie ecosystem within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch, lands of adjoining landowners, and surrounding communities.

(C) Interpretative and educational programs covering the history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the applicable cost of fencing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable Federal and State water laws and waste disposal (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for land within the boundaries of the Preserve (as described in section 4(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer for sale to the highest responsible person or entity, to serve on behalf of an individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section (b)(4)).

(i) SEC. 6. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, at fair market value—

(1) not more than 180 acres of real property within the boundaries of the Preserve (as described in section (b)(4)) and the improvements thereon; and

(2) rights-of-way on roads that are not owned by the State of Kansas within the boundaries of the Preserve.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made pursuant to clause (1) of title 3 of the Act of July 28, 1960, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 9904(a) of such title 3.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 7. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and operation of the Preserve. In carrying out such duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan required by section 5(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of the following 15 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Two members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4) Three members, who shall be appointed as follows:

(A) One member shall be selected from a list of nominations submitted to the Secretary by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of nominations submitted to the Secretary by the appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of nominations submitted to the Secretary by the Governor of the State of Kan-

(D) One member shall be a range manage-

ment specialist representing institutions of higher education in the State of Kansas.

(e) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 4 years.

(D) REAPPOINTMENT.—Each member may be reappointed to serve for a subsequent term.
The National Park Trust acquired the Spring Hill/Z Bar Ranch last June as a first important step toward ensuring that this country’s tallgrass herge is preserved and interpreted for all Americans. The trust is a 501(c)(3) non-profit educational and charitable corporation which is celebrating more than ten years as the land conservancy of the National Park System. The purpose is to assist the National Park Service in the acquisition of inholdings from willing sellers, and to acquire and protect properties, such as the Spring Hill/Z Bar Ranch, to ensure the protection as units of the National Park System.

Now more than ever, the acquisition of properties for inclusion in the National Park System is limited by shrinking federal funds. In view of the federal budget and because inclusion of a tallgrass prairie unit is believed by many to be the highest priority for the National Park System, the Trust will consider as its May meeting a proposal to donate up to 180 acres of the historic core area of the ranch, with a value of more than $2 million, to the national Park Service. The property would be donated once the federal designation has occurred and the National Park Service has completed its study to determine the amount of acreage that is needed. It is our hope that the potential donation indicates the strength of our conviction that the Spring Hill/Z Bar Ranch is of national significance and deserves to be part of the National Park System.

We also continue our pledge to manage the remainder of the property not under the direct control of the National Park Service in a manner that is consistent with the service’s general management plan—a plan that will be developed by the National Park Service in cooperation with a citizen advisory committee.

We welcome this opportunity to support this legislation and look forward to its completion so that this deserving resource can be part of the National Park System.

Sincerely,

J. PAUL DUFFENBACK
Chairman, Tallgrass Prairie Interim Management Committee, Member, National Park Trust Board of Trustees.

The National Park Trust
WASHINGTON, DC

Hon. Senator KASSEBAUM,
U.S. Senate,
WASHINGTON, DC.

Dear Senator KASSEBAUM: It is a privilege for the National Park Trust to endorse the legislation you are introducing to establish a Tallgrass Prairie National Preserve in Kansas. We commend you for your leadership in recognizing the importance of America’s tallgrass prairie, which once covered more than 140 million acres across our nation’s heartland, but today only survives in remnant swatches. The Spring Hill/Z Bar Ranch encompasses a 180-acre remnant of the Flint Hills. Its rolling, nearly treeless landscape with grasses, sometimes reaching ten feet in height, sustains the biological riches of a vanishing American landscape. Nearly 200 kinds of birds, 29 species of reptiles and amphibians, and 31 species of mammals can be found on the property. Its distinctive century-old limestone buildings, looming Flint Hills, and a wide range of opportunities in secondary and postsecondary education, further learning, and a wide range of opportunities in high-skill, high-wage careers, and for
The Career Preparation Education Reform Act

Mr. KENNEDY. Mr. President, it is a privilege, on behalf of the Clinton administration, to introduce the Career Preparation Education Reform Act. This measure will reform vocational education and contribute to the development of school-to-work opportunities. This legislation represents major changes to elaborate on the current Perkins Act programs and gives states an increased role and increased flexibility.

The legislation ensures that funds for in-school youth are administered at the local level by local schools, and that federal funds are allocated by a more effective needs-based formula.

This legislation adopts a new approach. It stresses high performance for all students. It places greater emphasis on outcomes and the reporting of results. It links outcomes with corrective actions, including sanctions and rewards. It requires each state’s plan to describe how the state will serve at-risk students, and it uses a local allocation formula which targets funds to the neediest communities.

The report of the National Assessment of Vocational Education found that at-risk and special education students are too often concentrated in programs that do not adequately prepare them for careers or higher education. By raising performance for all students and ensuring that planning, reporting and evaluation reflect this priority, these students will be better served.

At-risk students should have a greater opportunity to receive the quality services and assistance they need to be successful. We intend to pay special attention to this issue as this legislation moves through Congress.

This bill encourages States to use their vocational education, elementary and secondary education, and second-chance programs to develop comprehensive, integrated, and effective school-to-work systems.

It proposes two funding streams—a State grant and a national program authority. It increases the amount of the state grant distributed to schools and colleges under the formula.

It calls on vocational education to support development of the in-school part of school-to-work systems.

It takes a new approach to meeting the needs of special populations by emphasizing quality for all students.

It no longer requires separate State Boards for Vocational Education or separate State Advisory Councils. It provides States the waivers necessary to develop comprehensive education systems.

It proposes a performance partnership with the states in cooperation with the Secretary of Labor, in order to develop a system to measure performance, that ensures accountability and provides information on program success.

This legislation closely parallels other education reform initiatives on education reform and career preparation. I look forward to working closely with other Senators to achieve the bipartisan support we need in order to do a better job of preparing students for the world of work.

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. 906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Career Preparation Education Reform Act of 1995”.

ORGANIZATION OF THE ACT

SEC. 2. This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

TITLE II—EFFECTIVE DATES; TRANSITION

TITLE III—AMENDMENTS TO OTHER ACTS

Title I—Amendments to the Carl D. Perkins Vocational and Applied Technology Education Act

Amendment to the Act

Sec. 101. The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.; hereinafter referred to as “the Act”) is amended in its entirety to read as follows:

“SHORT TITLE; TABLE OF CONTENTS
“Sec. 1. Short title; table of contents.
“Sec. 2. Declaration of policy, findings, and purpose.
“Sec. 3. Authorization of appropriations.

Title I—Preparing Students for Careers

PART A—Improving State and Local Programs

Sec. 101. Priorities.
Sec. 102. State leadership activities.
Sec. 103. Local activities.
Sec. 104. Combination of funds.
Sec. 105. State plans.
Sec. 106. State administration.
Sec. 107. Local applications.
Sec. 108. Performance goals and indicators.
Sec. 109. Evaluation, measurement, and accountability.

PART B—Allocating State and Local Resources

Sec. 111. Allotments.
Sec. 112. Within-State allocation.
Sec. 113. Distribution of funds.

Title II—National Support for State and Local Reforms

Sec. 201. Awards for excellence.
Sec. 203. National assessment.
Sec. 204. National research center.
Sec. 205. Data systems.
Sec. 206. Career preparation for Indians and Native Hawaiians.

Title III—General Provisions

Sec. 301. Waivers.
Sec. 302. Effect of Federal payments.
Sec. 303. Identification of State-imposed requirements.
are not administered in an integrated manner, thus inhibiting the capacity of State and local administrators to implement programs that meet the needs of individual States and localities.

(9) The Federal Government can—through a performance partnership with States and localities based on clear programmatic goals, integrated State and local flexibility, improved accountability, and performance goals, indicators, and incentives—provide to States and localities financial assistance for the establishment of school-to-work opportunities systems in all States, as well as for services and activities that ensure that all students, including students with special needs, have access to the programs offered through those systems; and

(10) the Federal Government can also assist States and localities by carrying out national significance research, development, demonstration, dissemination, evaluation, capacity-building, data collection, training, and technical assistance activities that support State and local efforts to implement successfully services and activities that are funded under this Act, as well as to implement State and local career preparation activities that are supported with their own resources.

(11) build on the efforts of States and localities to further the development, implementation, and improvement of school-to-work opportunities in all States, as well as to develop, implement, and improve school-to-work opportunities systems, as well as integrating these services and activities with services and activities supported with other Federal, State, and local funds, such as those under the Job Training Partnership Act, in exchange for clear accountability for results;

(12) increase State and local flexibility in providing services and activities designed to develop, implement, and improve school-to-work opportunities systems, as well as integrating these services and activities with services and activities supported with other Federal, State, and local funds, such as those under the Job Training Partnership Act, in exchange for clear accountability for results; and

(13) benefit from national research, development, demonstration, dissemination, evaluation, capacity-building, data collection, training, and technical assistance activities supporting the development, implementation, and improvement of school-to-work opportunities systems.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) STATE AND LOCAL ACTIVITIES.—There are authorized to be appropriated to carry out title I, section 201, section 206(a), and section 206(d) of this Act $1,141,088,000 for the fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

(b) NATIONAL ACTIVITIES.—There are authorized to be appropriated to carry out title II, except sections 201, 206(a), and 206(d) of this Act, $37,000,000 for the fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

TITLE I—PREPARING STUDENTS FOR CAREERS

PART A—IMPROVING STATE AND LOCAL PROGRAMS

PRIORITIES

SEC. 101. In order to prepare students for a wide range of opportunities in high-skill, high-wage careers, funds under this title shall be used to support the development, implementation, and improvement of school-to-work opportunities systems in secondary and postsecondary schools, as set forth in title I of the School-to-Work Opportunities Act of 1994. State and local recipients shall give priority to services and activities designated to—

(1) ensure that all students, including students who are members of special populations, have the opportunity to achieve challenging State academic standards and industry-based skill standards;

(2) provide the integration of academic and vocational education;

(3) support career majors in broad occupational and industry sectors;

(4) effectively link secondary and postsecondary education;

(5) provide students, to the extent possible, with work-based instruction and understanding of, all aspects of the industry they are preparing to enter;

(6) combine school-based and work-based instruction in general workplace competencies;

(7) provide school-site and workplace mentoring; and;

(8) provide career guidance and counseling for students at the earliest possible age, including the provision of career awareness, exploration, and guidance information to students and their parents that is, to the extent possible, in a language and form that the students and their parents understand.

STATE LEADERSHIP ACTIVITIES

SEC. 102. Each State that receives a grant under this title shall allocate funds reserved for State leadership activities under section 112(c), conduct services and activities that further the development, implementation, and improvement of school-to-work opportunities systems and that are integrated, to the maximum extent possible, with broader educational reforms underway in the State, and—

(1) develop and implement a State strategic plan for the All-Youth-

(2) to the maximum extent possible, ensuring opportunities for all students, including students who are members of special populations, as well as single parents and single, pregnant women, to participate in services and activities that are free from sexual and other harassment and that lead to high-skill, high-wage careers;

(3) improving career guidance and counseling for students, including use of one-stop career centers;

(4) expanding and improving the use of educational technology;

(5) supporting partnerships of local educational agencies, institutions of higher education, and, as appropriate, other entities, such as employers, labor organizations, and community-based organizations, to provide models, such as youth development partnerships and youth leadership activities conducted with assistance under this Act;

(6) promoting the dissemination and use of occupational information, including use of one-stop career centers,

(7) supporting partnerships of local educational agencies, institutions of higher education, and, as appropriate, other entities, such as employers, labor organizations, and community-based organizations, to provide models, such as youth development partnerships and youth leadership activities conducted with assistance under this Act;

(8) providing financial incentives or awards to one or more local recipients in recognition of exemplary quality or innovation in education services and activities, or exemplary services and activities for students who are members of special populations, as determined by the State through a peer review process, using performance goals and indicators described in section 108 or other appropriate criteria;

(9) providing financial incentives or awards to one or more local recipients in recognition of exemplary quality or innovation in education services and activities, or exemplary services and activities for students who are members of special populations, as determined by the State through a peer review process, using performance goals and indicators described in section 108 or other appropriate criteria;

(10) providing financial incentives or awards to one or more local recipients in recognition of exemplary quality or innovation in education services and activities, or exemplary services and activities for students who are members of special populations, as determined by the State through a peer review process, using performance goals and indicators described in section 108 or other appropriate criteria;

(11) serving special populations and individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

LOCAL ACTIVITIES

SEC. 103. (a) GENERAL REQUIREMENTS.—Each local recipient that receives a subgrant under this title shall use funds to—

(1) conduct services and activities that further the development, implementation, and improvement of school-to-work opportunities systems in the State;

(2) provide services and activities that are of sufficient size, scope, and quality to be effective; and

(3) focus assistance under this title on schools or campuses that serve the highest numbers or percentages of students who are members of special populations.

(b) AUTHORIZED ACTIVITIES.—Each local recipient that receives a subgrant under this title may use funds to—

(1) provide services and activities that promote the priorities described in section 111, such as—

(A) developing curricula, including establishing and expanding career majors;

(B) acquiring and adapting equipment, including instructional aids;

(C) providing professional development activities;

(D) providing services, directly or through community-based organizations, such as curriculum modification, equipment modification, classroom modification, support personnel, instructional aids and devices, guidance, career information, English language instruction, and child care, to meet the education needs of students who are members of special populations.
‘‘(E) providing tech-prep education services and activities;

‘‘(F) carrying out activities that ensure active and continued involvement of business and labor in the development, implementation, and improvement of a school-to-work opportunities system in the State; and

‘‘(G) matching students with the work-based learning opportunities of employers; and

‘‘(H) providing assistance to students who have participated in services and activities under this section and who, in the opinion of the local educational agency, are members of special populations, each local recipient that receives a subgrant under this title may use such funds to carry out the evaluation under section 109(a)(1) or 109(a)(2).

‘‘(d) EQUIPMENT.—Equipment acquired or adapted with funds under this title may be used by other entities for the instructional purposes for which it was not designed if such acquisition or adaptation was reasonable and necessary for providing services or activities under this Act, for the purpose of supplementing, or otherwise is incidental to, does not interfere with, and does not add to the cost of, the use of such equipment under this title.

COMBINATION OF FUNDS

‘‘SEC. 104. (a) In General.—In order to develop, implement, and improve school-to-work opportunities systems, States and local recipients that are assisted under this Act may combine funds from programs listed in subsection (e) in accordance with subsections (b) through (d).

‘‘(b) STATE LEADERSHIP ACTIVITIES.—A State may combine funds authorized under section 112(c) with funds available for State leadership activities under one or more of the programs listed in subsection (e) in order to carry out State leadership activities that are authorized under this title as well as under such other program or programs.

‘‘(c) LOCAL ACTIVITIES.—A local recipient may combine funds authorized under section 112(a) with funds available for services and activities related to the development, implementation, or improvement of school-to-work opportunities systems in one or more of the programs listed in subsection (e) in order to provide services and activities that are authorized under this title as well as under such other program or programs.

‘‘(d) ADMINISTRATION.—Nothing in this section shall be construed to—

‘‘(1) require a State or local recipient under this Act to maintain separate records of the amount of assistance that is used for each activity under this section; or

‘‘(2) waive or amend any requirement of the programs listed in subsection (e), except as authorized in section 301.

‘‘(e) INCLUDED PROGRAMS.—Funds may be combined for programs, services, or activities authorized under—

‘‘(1) this Act;

‘‘(2) the School-to-Work Opportunities Act of 1994; or

‘‘(3) the Goals 2000: Educate America Act;

‘‘(4) the Elementary and Secondary Education Act of 1965; and

‘‘(5) the Job Training Partnership Act.

STATE ADMINISTRATION

‘‘SEC. 106. (a) RESPONSIBLE AGENCY OR AGENCIES.—Any State desiring to receive a grant under section 111(f) shall, consistent with State law, designate an education agency or agencies that shall be responsible for the administration of services and activities under this Act, including—

‘‘(1) the development, submission, and implementation of the State plan;

‘‘(2) the efficient and effective performance of the State’s duties under this Act; and

‘‘(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of services and activities assisted under this Act, such as business, industry, parents, students, teachers, labor organizations, community-based organizations, State and local elected officials, and local program administrators.

‘‘(b) SPECIAL ACTIVITIES.—Any State that receives a grant under section 111(f) shall—

‘‘(1) gather and disseminate data on the effectiveness of services and activities related to the State’s school-to-work opportunities system in meeting the educational and employment needs of women and students who are members of special populations;

‘‘(2) review proposed actions on applications, grants, contracts, and policies of the State to help to ensure that the needs of women and students who are members of special populations are addressed in the administration of this Act; and

‘‘(3) recommend outreach and other activities that inform women and students who are members of special populations about their education and employment opportunities.

‘‘(d) CONTENTS.—Each State plan under subsection (a) shall describe how the State will use funds under this title to—

‘‘(1) develop, implement, or improve the statewide school-to-work opportunities system and address the priorities described in section 101;

‘‘(2) provide for the fiscal control and accountability procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this Act.

‘‘(f) REVISIONS.—When changes in conditions or other factors require substantial re-
tion 109(c), on the State and local recipients will use in the quantifiable, and measurable form; the level of performance to be achieved by section 112(c) to evaluate its entire school-populations.

Any applicant that is eligible under subsection (a) and that desires to receive a subgrant under this title shall, according to requirements established by the State, submit an application to the agency or agencies designated under section 106. In addition to including such information as the State may require and identifying the results the applicant seeks to achieve, each application shall also describe how the applicant will use funds under this title to

(1) develop, improve, or implement a school-to-work opportunities system in secondary and postsecondary schools and address the priorities described in section 101, in accordance with section 103;

(2) evaluate progress toward the results it seeks to achieve, consistent with the performance goals and indicators established under section 108;

(3) coordinate its services and activities with related services and activities offered by community-based organizations, employers, and labor organizations, and, to the extent possible, integrate its services and activities under this title with broad education and the early childhood education system of the State, including those under the Goals 2000: Educate America Act and the School-to-Work Opportunities Act of 1994, as well as related services and activities under the Elementary and Secondary Education Act of 1965, the Job Training Partnership Act, and relevant employment, training, and welfare programs carried out in the State;

(4) consult with students, their parents, and other interested individuals or groups, in developing its services and activities under this title;

(5) establish performance goals to define the level of performance to be achieved by students served under this title and to evaluate the quality and effectiveness of services and activities under this title;

(B) express such goals in an objective, quantifiable, and measurable form;

(C) establish performance indicators that the Secretary shall, in consultation with the recipients, and on the basis of the data described in section 109(c), on the State’s progress in achieving its goals, including information on the progress of students who are members of special populations.

Any State may also use amounts it receives for State leadership activities under section 112(c) to evaluate its entire school-to-work opportunities system at the postsecondary level and to carry out activities under paragraph (1)(D).

(b) PERFORMANCE INDICATORS.—The Secretary shall, in consultation with the Secretary of Labor, work with States to ensure that their performance goals under this section are consistent with challenging State academic standards and industry-based skill standards and their State goals established under the School-to-Work Opportunities Act of 1994 and the Workforce Investment Act. Performance goals established under paragraph (1)(A) of subsection (a) shall be in accord with the National Education Goals Panel established under section 111(a). Performance indicators established under paragraph (1)(C) of subsection (a) shall include at least:

(1) achievement to challenging State academic standards, such as those established under Goals 2000: Educate America Act, and industry-based skill standards;

(2) receipt of a diploma, skills certificate, and postsecondary certificate or degree; and

(3) job placement, retention, and earnings, biennially in the career major of the student.

(c) TRANSITION.—Before it establishes performance goals and indicators described in section 108, the Secretary shall work with the State to establish performance goals and indicators under subsection (a). Notwithstanding any other provision of law, the Secretary may continue to use funds appropriated to carry out the purposes of title II to provide technical assistance under this section.

EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY

SEC. 109. (a) LOCAL EVALUATION.—(1) Each local recipient of a subgrant under this title shall, at all levels, use evidence, on a plan, the State determines that the local recipient does so, it need not evaluate separately that portion of its school-to-work opportunities system supported with funds under title II and activities provided through this Act. The Secretary shall work with the State to implement improvement activities.

(2) The Secretary shall, in collaboration with the Secretary of Labor, work with States to ensure that the Secretary is not making substantial progress in meeting the purpose of this Act or carrying out services and activities that are in accord with the priorities described in section 101, including the performance goals and indicators established under section 108, the Secretary shall, after notice and opportunity for a hearing, withhold no more than 10 percent of the amount made available under this Act to that State for the fiscal year next following the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States; and

(3) An amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States.

(2) ALLOTMENT TO STATES.—(1) Subject to paragraph (2), from the remainder of the sum available for title I, the Secretary shall allot to each State for each fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States; and

(B) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States.

(2A) Notwithstanding any other provision of law and subject to subparagraph (B), for any fiscal year through the fiscal year 1998, no State shall receive for services and activities authorized by title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year for which the allotment is determined and parts A, B, and E of title III of the Carl D. Perkins Vocational and Applied Technology Education Act.

(3) For any fiscal year the amount appropriated for services and activities authorized by title I and available for allotment...
under this section is insufficient to satisfy the provisions of subparagraph (A), the Secretary shall ratably reduce the payments to all States for such services and activities as necessary.

"(C) Notwithstanding any other provision of law, the allotment for this title for each of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands shall not be less than $200,000.

"(d) ALLOTMENT RATIO.—The allotment ratio of any State shall be 1.00 less the product of

1. 0.50; and

2. the quotient obtained by dividing the per capita income for the State by the per capita income for the States (exclusive of American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands), except that

(A) the allotment ratio shall not in any case be more than 0.60 or less than 0.40; and

(B) the allotment ratio for American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands shall be 0.60.

"(e) REALLOTMENT.—If the Secretary determines that the allotment under subsection (c) for any fiscal year will not be required for carrying out the services and activities for which such amount was allotted, the Secretary shall make such amount available for reallocation to one or more other States. Any amount reallocated to a State under this subsection shall be deemed to be part of its allotment for the fiscal year in which it is obligated.

"(f) STATE GRANTS.—From the State’s allotment under subsection (c), the Secretary shall make a grant for each fiscal year to each State that has an approved State plan under section 165.

(g) DEFINITIONS AND DETERMINATIONS.—For purposes of this section—

(1) allotment ratios shall be computed on the basis of the average of the per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available;

(2) the term ‘per capita income’ means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year; and

(3) population shall be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

III.—WITHIN-STATE ALLOCATION

"Sec. 112. (a) IN GENERAL.—(1) For each of the fiscal years 1996 and 1997, the State shall award as subgrants to local recipients at least 30 percent of its grant under section 111(f) for that fiscal year.

(2) For each of the fiscal years 1998 through 2005, the State shall award as subgrants to local recipients at least 65 percent of its grant under section 111(f) for that fiscal year.

(b) STATE ADMINISTRATION.—(1) The State may use an amount not to exceed five percent of its grant under section 111(f) for each fiscal year for administering its State plan, including developing the plan, reviewing local applications, supporting activities to ensure that the plan complies with the priorities of interested individuals and organizations, and ensuring compliance with all applicable Federal laws.

(2) Each State shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds used for State administration under paragraph (1).

(c) STATE LEADERSHIP.—The State shall use the grant under section 111(f) for each fiscal year for State leadership activities described in section 102.

"(SEC. 113. (a) DISTRIBUTION OF FUNDS AT THE SECONDARY LEVEL.—(1) Except as provided in subsections (c), (d), and (e), each State shall, each fiscal year, distribute to each local educational agency or consortium of such agencies, within the State funds under this title available for secondary school education services and activities that are conducted in accordance with the priorities described in section 101. Each local educational agency or consortium shall be allocated an amount that bears the same relationship to the amount allocated to that agency or consortium under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year from the total amount received under such subpart by all the local educational agencies in the State in such fiscal year.

(2) In applying the provisions of paragraph (1), the State shall—

(A) distribute those funds that, based on the distribution formula under paragraph (1), would have gone to a local educational agency serving only elementary schools, to the local educational agency that provides secondary school services to secondary school students in the area concerned; and

(B) distribute to a local educational agency that has jurisdiction over secondary schools, funds based on the number of students that entered such secondary schools in the previous year from the elementary schools involved; and

(C) distribute funds to an area vocational education school in any case in which—

(i) the area vocational education school and the local educational agency or agencies concerned have an agreement to use such funds to provide services and activities in accordance with the priorities described in section 101; and

(ii) the area vocational education school serves an equal or greater proportion of students with disabilities or economically disadvantaged students than the proportion of these students under the jurisdiction of the local educational agencies sending students to the area vocational education school.

(b) DISTRIBUTION OF FUNDS AT THE POSTSECONDARY LEVEL.—(1) Except as provided in subsections (c), (d), and (e), each State shall, each fiscal year, distribute to eligible institutions, in accordance with the priorities described in section 101, the amount available as the number of Pell Grant recipients and recipients of assistance with the greatest need for services and activities conducted in accordance with the priorities described in section 101.

(2) For the purpose of this section—

(A) the term ‘Pell Grant recipient’ means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965.

(B) the term ‘Postsecondary education’ means education at the postsecondary level;

(C) the term ‘Postsecondary education’ means education at the postsecondary level;

(D) Postsecondary education means education at the postsecondary level;

(E) the term ‘Postsecondary education’ means education at the postsecondary level; and

(F) the term ‘Postsecondary education’ means education at the postsecondary level.

(3) Pell Grant recipients and recipients of assistance with the greatest need for services and activities conducted in accordance with the priorities described in section 101 and the aggregate amount allocated and awarded to the consortium equals or exceeds $15,000; or

(II) located in a rural, sparsely-populated area and demonstrates that the agency is unable to enter into a consortium for the purpose of providing services and activities conducted in accordance with the priorities described in section 101.

(B) The State may waive the requirement in subparagraph (A) in any case in which the local educational agency—

(i) enters into a consortium with one or more other local educational agencies to provide services and activities conducted in accordance with the priorities described in section 101 and the aggregate amount allocated and awarded to the consortium equals or exceeds $50,000; or

(ii) is a tribally controlled community college.

(c) SECONDARY-POSTSECONDARY CONSORTIA.—The State may distribute funds available in any fiscal year for secondary and postsecondary services, as applicable, to one or more local educational agencies and to the more eligible institutions that enter into a consortium in any case in which—

(i) the consortium has been formed to provide services and activities conducted in accordance with the priorities described in section 101; and

(ii) the aggregate amount allocated and awarded to the consortium under subsections (a) and (b) equals or exceeds $50,000.

(d) REALLOTMENTS.—The State shall reallocate to one or more local educational
agencies, eligible institutions, and consortia any amounts that are allocated in accord-
ance with subsections (a) through (e), but 
that would not be used by a local edu-
cation agency at the eligible institution, in 
a manner the State determines will best serve 
the purpose of this Act and be in accord with 
the priorities described in section 101. 

(8) DISADVANTAGED STUDENTS.—For the purposes of this section, the 
State may determine the number of eco-
nomically disadvantaged students on the 
basis of the following:

(1) eligibility for free or reduced-price meals under the National School Lunch Act, 
the proportion of children in poverty under part A of title IV of the Social Secu-

rit y Act, or benefits under the Food Stamp Act of 1977; 

(2) the number of children counted for al-
location purposes under title I of the Ele-

mentary and Secondary Education Act of 1965; or 

(3) any other index or disadvantaged eco-
nomic status if the State demonstrates to 
the satisfaction of the Secretary that the 
index is more representative of the number of 
low-income students than the indices de-
scribed in paragraphs (1) and (2).

TITLE II—NATIONAL SUPPORT FOR 
STATE AND LOCAL REFORMS 

AWARDS FOR EXCELLENCE 

SEC. 201. National Awards, from the amount reserved under section 111(a) for any 
fiscal year after the fiscal year 1998, and 
through a peer review process, make per-
formance awards to one or more States that 
have—

(1) exceeded in an outstanding manner 
the performance goals set in section 108; 

(2) exceeded in an outstanding manner 
services and activities assisted under 
part A of title IV of the Social Secu-

rit y Act, and benefits under the Food Stamp Act of 1977; 

(3) provided exemplary education services 
and career information systems.

SEC. 202. (a) General Authority.—In 
order to carry out the purpose of this Act, the 
Secretary may, directly or through grants, 
contracts, or cooperative agree-
ments, carry out research, development, dis-
sem ination, capacity-building, and 
technical assistance activities with re-
gard to the services and activities carried 
carried out under this Act. The Secretary shall 
co-
ordinate all such activities carried out under 
this subsection with related activities under the 
School-to-Work Opportunities Act of 1994, 
the Goals 2000: Educate America Act, the Job 
Training Partnership Act, and the Ele-


(b) Conten ts.—The applied research, 
development, and dissemination activities 
carried out under this subsection include 
acquaintance with related activities carried out under the 
Job Training Partnership Act and title II of the Ele-


(9) The Secretary shall coordinate tech-
nical assistance activities carried out 
with related activities carried out under the 
Job Training Partnership Act and title II of the Ele-


(b) Professional Development.—(1) The 
Secretary shall make grants for 
professional development activities for 
educators, including contracts, 
cooperative agreements, and 
support professional development activities for 
educators, including grants, contracts, or cooperative agree-
sments, and provide assistance under this Act 
to help the State ensure that all students receive a 
education that en-
ables them to enter high-skill, high-wage ca-
rees. Entities eligible to receive funds under this 
subsection shall be high-skill, high-wage work-

ers, public or private nonprofit or-

ganizations, and consortia of such 
institutions, organizations, or agencies.

(2) Professional development activities 
supported under this subsection shall— 

(1) be tied to challenging State academic 
standards and industry-based skill stand-
ards; 

(2) include strong substantive and peda-
gological components; 

(3) be designed to improve educators’ 
skills in such areas as integration of 
academic and vocational instruction, articulating 
secondary and postsecondary education, 
com-
bin-
ing school-based and work-based instruc-
tion, and using occupational and career 
information.

(3) Funds under this subsection may be used 
for such activities as pre-service and in-
service training and support for development 
of local, regional, and national educator net-

works that facilitate the exchange of in-
form-

ation relevant to the development of 

school-to-work opportunities systems. 

(3) In supporting activities under this 
subsection, the Secretary shall give priority 
to designing and implementing new models 
of professional development for educators, 
and preparing educators to use innovative 
forms of instruction, such as worksite learn-
ing and the integration of academic and oc-
cupational instruction. The Secretary shall 
coordinate the professional development ac-
civities under this subsection with related activities carried out under the 
Job Training Partnership Act and title II of the Ele-


SEC. 203. (a) General Authority.—(1) The 
Secretary shall coordinate technical 
assistance activities assisted under this Act, 
through independent studies and analyses, 
including, when appropriate, 
studies based on data from longitudinal sur-
veys, that are conducted through one or 
more competitive awards.

(2) The Secretary shall appoint an inde-
pendent advisory panel, consisting of admin-
istrators, educators, researchers, and rep-
resentatives of business, industry, labor, and 
other relevant groups, as well as representa-
tives of national, State, and local 
officials, to advise the Secretary on the im-
plementation of such assessment, 
cluding the issues to be addressed, the methodology of the assessment, and 
recommen-
dations. The panel, at its discretion, 
may submit to the Congress an independent 
analysis of the findings and recommenda-
tions of the assessment.

(1) CONTENTS.—The assessment required 
under subsection (a) shall examine the ex-
tent to which services and activities assisted 
under this Act have achieved their intended 
results and purposes, including the extent to 
which— 

(1) the State and local services and activities 
have developed, implemented, or improved 
systems established under the School-to-

(2) students who participate in services 
and activities assisted under this Act suc-
ced in meeting challenging State academic 
standards and industry-based skill stand-
ards; and

(3) the systems improvement, participa-
tion, local and State assessment, and 
accountability provisions of this Act, including 
the performance goals and indicators estab-
lished under section 108, are effective.

(c) Report.—The Secretary shall submit 
to the Congress an interim report on or 
before July 1, 2000, and a final report on or 
before July 1, 2004.

NATIONAL RESEARCH CENTER

SEC. 204. (a) General Authority.—(1) The Secretary may, through a grant or 
contract, establish or support one or more national centers in the field 

of school-to-work opportunities systems.

(b) Contents.—(1) The applied research, 
development, and dissemination activities 
carried out by the national center or centers 
shall include—

(a) activities that assist recipients of 
funds under this Act to meet the require-
ments of section 103; and

(b) activities as the Secretary 
determines to be appropriate to achieve 
the purpose of this Act.

(2) The center or centers conducting 
the activities described in paragraph (a) 
shall annually prepare a summary of key research 
findings of such center or centers and shall 
submit copies of the summary to the Secre-
taries of Education, Labor, and Health 
and Human Services. The Secretary shall 
submit that summary to the Committee on Labor 
and Human Resources of the Senate, and 
the Committee on Economic and Education 
Opportunities of the House of Representa-
tives.

DATA SYSTEMS

SEC. 205. (a) In General.—The Secretary shall 
maintain a data system to collect in-
formation about, and report on, the condi-
tion of school-to-work opportunities systems 
and on the effectiveness of State and local 

career education programs and the ef-
fectiveness of career preparation education 
activities and services. The Secretary shall 
periodically report to the Congress on the 
results of the analysis of data collected 
each year pursuant to this Act.

(b) CONTENTS.—The data system shall—
“(1) provide information to evaluate, to the extent feasible, the participation and performance of students, including students who are members of special populations; 

(2) trend or data that are at least nation-wide representatively; 

(3) report on career preparation in the context of education reform; and 

(4) the extent feasible, on data from general purpose data systems of the Department or other Federal agencies, augmented as necessary with data from additional Federal agencies, focusing on career preparation education.

(c) COORDINATION.—(1) The Secretary shall consult with a wide variety of experts in academic and occupational education, including individuals with expertise in the development and implementation of school-to-work opportunities systems, in the development of data collections and reports under this section.

(2) In maintaining the data system, the Secretary shall—

(A) ensure that the system, to the extent practicable, uses comparable information elements and uniform definitions common to States, performance indicators, and State and local assessments; and 

(B) cooperate with the Secretaries of Commerce and Labor to ensure that the data system is coordinated with other Federal information systems regarding occupational data, and to the extent feasible, allow for international comparisons.

(3) The Secretary and the Secretary of Labor shall jointly define common terms and definitions that all State grantees and local applicants shall use in program administration, data collection and reporting, and evaluation at all levels for programs supported under this Act and the Job Training Partnership Act.

(d) ASSESSMENTS.—(1) As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on career preparation at the secondary school level for a nationally representative sample of students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of students in the areas assessed. Such assessment may include international comparisons.

(2) The Commissioner of Education Statistics may authorize a State educational agency, or consortium of such agencies, to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course or study related to services and activities under title I, if the Commissioner has determined, in writing that such use will not—

(A) result in the identification of characteristics or performance of individual schools or students; 

(B) result in a national ranking or comparing of schools or local educational agencies; 

(C) be used to evaluate the performance of teachers, principals, or other local educators for rewarding or punishing, or 

(D) corrupt the use or value of data collected for the National Assessment.

CAREER PREPARATION FOR INDIANS AND NATIVE HAWAIIANS

SEC. 206. (a) ASSISTANCE TO TRIBES OR BUREAU-FUNDED SCHOOLS.—(1) (A) From funds reserved under section 111(b)(1) for each fiscal year, the Secretary shall make grants to, or enter into cooperative agreements with, tribal organizations of eligible Indian tribes or Bureau-funded schools to develop and provide services and activities that are consistent with the provisions of this Act and conducted in accordance with the priorities described in section 101.

(B) Any tribal organization or Bureau-funded school that receives assistance under this subsection shall—

(i) establish performance goals and indicators of performance to be achieved by students served under this subsection;

(ii) evaluate the quality and effectiveness of services and activities provided under this subsection; and

(iii) help to ensure that students served under this subsection to achieve academic and skill standards, receive high school diplomas, skill certificates, and post-secondary certificates or degrees, and enter employment related to their career major.

(2) A grant or cooperative agreement under this subsection with any Bureau-funded school eligible to receive assistance under this Act shall not be subject to the requirements of the Indian Self-Determination Act, and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 that are relevant to the services and activities administered under this subsection.

(3) A grant or cooperative agreement under this subsection with any Bureau-funded school shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

(4) In making grants or cooperative agreements under this subsection with any Bureau-funded school eligible to receive assistance under this Act, the Secretary shall give special consideration to awards to tribally controlled postsecondary vocational institutions.

(b) Assistance to Native Hawaiians.—(1) The term ‘Bureau-funded school’ has the same meaning given ‘Bureau funded school’ in section 114(3) of the Education Amendments of 1978 (25 U.S.C. 2620(3)).

(2) The term ‘all such grants’ includes, with respect to Native Hawaiians—

(A) all grants to Native Hawaiians under this section; 

(B) grants to Native Hawaiians under this section; and 

(C) grants to Native Hawaiians under this section.

(c) WAIVERS.—(1) Except as provided in subsection (b), the Secretary may waive any requirement of any statute listed in subsection (c), or of the regulations issued under that statute, and the Secretary of Labor may waive any statutory or regulatory requirement under the Job Training Partnership Act, for a State that requests such a waiver.

(A) if, and only to the extent that, the Secretary or the Secretary of Labor determines that such requirement impedes the ability of the State to carry out plans and policies for the reorganization and development of educational and work-based programs that are consistent with the purposes of this Act.

(B) if the State waives, or agrees to waив, any similar requirement of State law.

(C) if, in the case of a statewide waiver, the State—

(I) has provided all local recipients of assistance under this Act in the State with notice of, and an opportunity to comment on, the State’s proposal to request a waiver; and

(II) has submitted the comments of such recipients to the appropriate Secretary; and

(D) if the State provides such information as the Secretary or the Secretary of Labor—

(i) request for waiver. —Any State may request, on its own behalf or on behalf of a local recipient, a waiver by the Secretary or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions that are inconsistent with the purposes of this Act.

(ii) meaning. —The term ‘all such grants’ includes, with respect to Native Hawaiians—

(A) all grants to Native Hawaiians under this Act; 

(B) grants to Native Hawaiians under this Act; and 

(C) grants to Native Hawaiians under this Act.
reasonably requires in order to make such determinations.

(2) The Secretary or the Secretary of Labor, as appropriate, shall act promptly on any request under subsection (a)

(3) Each waiver approved under this subsection shall be for a period not to exceed five years, except that the Secretary or the Secretary of Labor may extend such period if the Secretary or the Secretary of Labor determines that the waiver has been effective in enabling the State to carry out the purpose of the affected programs.

(4) A waiver approved under this subsection—

(5) The term ‘public technical institute’ means a public institution of higher education that is primarily a technical institute and that is not a proprietary school.

(6) The term ‘tribally controlled community college’ means an educational institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1993 and the Navajo Community College Act.

(7) The term ‘local recipient’ means an individual who has a disability or disabilities, as such term is defined in section 3(2) of the Americans With Disabilities Act of 1990.

(8) The term ‘tribally controlled community college’ means an educational institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1993 and the Navajo Community College Act.

(9) The term ‘school dropout’ means an individual that is no longer attending school and is not attending another educational institution or other educational or vocational training program.

The term ‘school dropout’ has the same meaning as given under section 4(17) of the School-to-Work Opportunities Act of 1994.

(10) The term ‘Secretary’ means the Secretary of Education.

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(12) The term ‘school dropout’ has the same meaning as given under section 4(17) of the School-to-Work Opportunities Act of 1994.

(13) The term ‘social Security number’ means a number assigned to an individual by the Social Security Administration.

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plan, or amendment to a State plan, under the Carl D. Perkins Career Preparation Education Act or the School-to-Work Opportunities Act of 1994;”;
(b) in subsection (b), by striking out “in addition to its responsibilities under the Carl D. Perkins Vocational Education Act,” and inserting in lieu thereof “the”;
(c) in subsection (c), by striking out “this Act, under section 422 of the Carl D. Perkins Vocational Education Act,” and inserting in lieu thereof “this Act and”;
(d) in subsection (d), by striking out “Vocational Education Act” and inserting in lieu thereof “Vocational and Applied Technology Education Act in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1996”; and
(e) in subsection (e), by amending paragraph (1) to read as follows:
(1) in GENERAL.—For purposes of this section, the term ‘applicable Federal human resource program’ includes any program authorized by provisions of law described in subsection (2)(A) that the Governor and the head of the State agency or agencies responsible for the administration of such program jointly agree to include within the jurisdiction of the State Council; and

(1) in section 1 (20 U.S.C. 11), by inserting “through the fiscal year 1996” after “annually appropriated”;
(2) in section 2 (20 U.S.C. 12), by inserting “through the fiscal year 1996” after “there is annually appropriated”; and
(3) in section 3 (20 U.S.C. 13), by inserting “through the fiscal year 1996” after “There is appropriated for each fiscal year.”

SEC. 303. The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—
(1) in section 111(b)(2)(C)(v), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”; and
(2) in section 111(b)(3), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation.”

AMENDMENTS TO THE SMITH-HUGHES ACT
SEC. 304. The School-to-Work Opportunities Act (20 U.S.C. 1601 et seq.) is amended—
(1) in section 302(b), by striking clause (I) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;
(2) in section 201(b)(2), by striking clause (J) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;
(3) in section 313—
(A) in subsection (d)(6)(B), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”;
(B) in subsection (d)(4), by striking clause (J) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;
(4) in section 409(a), by striking the individuals assigned under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));
(5) in section 404—
(A) by inserting “and” after “(20 U.S.C. 1733(b));”;
(B) by striking the National Network for Curriculum Coordination in Vocational Education under section 402(c) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2320(c));
(6) in section 502(b), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”; and
(7) in section 505—
(A) in subsection (a)(2)(B)(i), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”; and
(B) by striking the National Network for Curriculum Coordination in Vocational Education under section 502(c) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(c));

AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
SEC. 305. The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—
(1) in section 111(b)(2)(C)(v), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”;
(2) in section 111(b)(3), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation.”

AMENDMENTS TO THE ADULT EDUCATION ACT
SEC. 306. The Adult Education Act (20 U.S.C. 1201 et seq.) is amended—
(1) in section 322(a)(4), by striking “Vocational and Applied Technology” and inserting in lieu thereof “Career Preparation”;
(2) in section 342—
(A) in subsection (c)(11), by striking “Carl D. Perkins Career Preparation Education Act of 1983” and inserting in lieu thereof “Carl D. Perkins Career Preparation Education Act”; and
(B) in subsection (d), by striking “Carl D. Perkins Career Preparation Education Act.”

AMENDMENTS TO THE GOALS 2000: EDUCATE AMERICA ACT
(1) in section 306—
(A) in subsection (c)(1)(A), by inserting before the semicolon at the end thereof a comma and “as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995, until not later than July 1, 1996,” after “such indicators”.

AMENDMENTS TO THE SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994
SEC. 308. The School-to-Work Opportunities Act (20 U.S.C. 1601 et seq.) is amended—
(1) in section 302(b), by inserting clause (J) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;
(2) in section 201(b)(2), by striking clause (I) and redesignating clauses (I) and (J) as clauses (J) and (K), respectively;
The bill I am introducing today addresses this need by encouraging medical schools to incorporate training on domestic violence into their curricula. It defines significant training to include training to those medical and other health professionals which provide significant training in domestic violence. It defines significant training to include identifying victims of domestic violence and maintaining complete medical records, providing medical advice regarding the dynamics and nature of domestic violence, and referring victims to appropriate public and nonprofit entities for assistance.

The bill also defines domestic violence in the broadest terms, to include battering, child abuse, and elder abuse. I hope my colleagues agree that this legislation is a critical next step in the fight to bring the brutality of domestic violence out in the open. It mobilizes our Nation’s health care providers to recognize and treat its victims—and will ultimately save lives by helping to break the cycle of violence.

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

S. 697

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 “Domestic Violence Identification and Referral Act of 1995”.

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PROVISIONS REGARDING DOMESTIC VIOLENCE.

(a) TITLES VII PROGRAMS; PROFESSIONAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 266) is amended—

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

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

“(c) PREPARATIONS REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

“(1) In general.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that, in effect, meets the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

“(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim’s injuries.

“(B) Referring and treating such victims, within the scope of the health professional’s discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

“(C) Referring the victims to public and nonprofit private entities that provide services for such victims.”
By Mr. COHEN (for himself and Ms. SNOWE):

S. 698. A bill to designate the Federal building at 33 College Avenue in Waterville, Maine as the "George J. Mitchell Federal Building," and for other purposes.

THE GEORGE J. MITCHELL FEDERAL BUILDING
ACT OF 1995

Mr. COHEN. Mr. President, at the request of the City of Waterville, Maine, I am introducing S. 698, legislation to designate a federal building in Waterville as the "George J. Mitchell Federal Building."

As most of you know, George Mitchell and I shared more than the position of Senator from Maine. We both grew up in similar circumstances with very similar backgrounds. George Mitchell is half Irish and half Lebanese. I am half Irish and half Jewish. Both of us graduated from Bowdoin College and both became lawyers before entering public service together over the years on many issues of concern to Maine people and wrote a book together on the Iran-Contra Affair.

From a quiet young lawyer in Waterville, Maine, came a great leader who has done his country and his State proud. George Mitchell was born in Waterville in 1933. Waterville is located 18 miles north of the State capitol on the west bank of the Kennebec River. It was settled in 1764 and became Maine's 137th town in 1851. Waterville is home to Colby College, Hathaway Shirt Company, and the Redington Museum which exhibits a number of 18th and 19th century artifacts from the region including the revolver used by Lieutenant Charles Shorey, of Waterville, at the Battle of Gettysburg.

George attended St. Joseph's grammar school and graduated from Waterville High School in 1950. He graduated from Bowdoin College in 1954; served in the U.S. Army Counterintelligence Corps in Berlin, Germany, from 1954-56; and then went on to Georgetown University to get his law degree.


In 1980, he was appointed by Governor Brennan to fill the unexpired term of Senator Muskie who was appointed by President Carter to be Secretary of State. There is a Chinese proverb that says "when drinking the water, it is important to remember those who dug the well." To really understand George's success, one need look no further than to the fact that Ed Muskie was his mentor. Ed, like George, began his political career in Waterville as a young lawyer. Ed provided George with the basic principles of public service which have guided him over the years. It was no surprise that George Mitchell demonstrated many of the qualities which typify Senator Muskie and Maine: intelligence, integrity, and independence. Senator Mitchell was elected Senate Majority Leader in 1988 and served his colleagues and the institution with distinction.

George Mitchell was a gifted public servant. His voice reminds us that public service is a noble calling. It was both a pleasure and an honor to serve with him. I hope my colleagues will work with me in passing this legislation as a means of paying tribute to the many years of outstanding service Senator Mitchell has given to the State of Maine and the country.

Ms. SNOWE. Mr. President, it is my pleasure today to offer my strong support for legislation to honor our colleague and my predecessor, former Senate Majority Leader George J. Mitchell. This legislation, which I am proud to cosponsor with my colleague, will work with me in passing this legislation as a means of paying tribute to the many years of outstanding service Senator Mitchell has given to the State of Maine and the country.

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Maine—and also made his mark on our nation’s political system. Because of his dedication to his party’s ideals, he was chosen as this body’s Majority Leader in 1988, and served in that important and prestigious position until his retirement from the Senate.

Always, during his tenure, George Mitchell remembered the people who sent him to Washington. As Maine’s Second District Representative, I was honored to serve alongside George Mitchell throughout his tenure in the United States Senate. We worked together on a bipartisan basis to ensure that the men and women of Maine were treated fairly, and had opportunities extended to other Americans.

With this legislation, we make an appropriate acknowledgement of George Mitchell’s years of leadership in the public arena. This is but a small token of our appreciation: a fitting gesture which the City of Waterville has requested.

So in closing, I urge all of my colleagues to join me in support of this legislation and to extend to George Mitchell the hometown honor he so deeply deserves.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 7 years, and for other purposes; to the Committee on Governmental Affairs.

THE OFFICE OF GOVERNMENT ETHICS

Mr. LEVIN:

Mr. LEVIN and I first introduced S. 699, legislation on

Senator COHEN and I first introduced this bill bank in August of 1993. The Oversight Subcommittee held a hearing on the reauthorization in April of 1994, with the Director of the OGE, Stepehn Potts, as a witness. The reauthorization bill was reported out of the Subcommittee on Oversight of Government Management, and is still on the Subcommittee on Oversight of Government Management. Senator COHEN and I seek to reauthorize the OGE, so that the agency can carry on its very important responsibilities.

OGE was created in 1978 as part of the Office of Personnel Management. Over the years, Congress has given OGE more authority and autonomy to the OGE, making it a separate agency as of October 1, 1989. This was an important step in recognizing the significance of OGE’s role and its need for independence. In addition, through Executive Order, President Bush and President Clinton have given the OGE new responsibilities for guiding and implementing an ethics program throughout the Executive Branch. The responsibilities of the OGE range from teaching to enforcement; from issuing regulations to providing guidance and

Congress wanted to enhance the agency’s prestige and authority within the Executive Branch given its important and sensitive responsibilities.

While OGE’s budget has increased rather significantly since we last reauthorized the agency in 1988, OGE still has a lean budget with which to operate when you consider the critically important responsibilities of the agency. That said, in light of budget deficits, OGE, like all agencies will be called upon to meet its responsibilities in the most cost-effective manner possible. The bill also contains a number of technical changes to the ethics laws.

OGE’s mission is critically important in ensuring strict ethical standards in government. I hope my colleagues will move expeditiously to pass this legislation and reauthorize this important agency.

Mr. LEVIN. Mr. President, today, Senator COHEN and I, in our capacities as the Chairman and the Ranking Minority Member of the Subcommittee on Oversight of Government Management, are introducing a bill to Reauthorize the Office of Government Ethics (OGE). Reauthorization of the OGE is essential so that the agency can continue to perform its mission to provide overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency.

The OGE’s previous authorization expired on September 30, 1994. Senator COHEN and I first introduced this bill in August of 1993. The Oversight Subcommittee held a hearing on the reauthorization in April of 1994, with the Director of the OGE, Stepehn Potts, as a witness. The reauthorization bill was reported out of the Subcommittee on Oversight of Government Management. The Government Affairs Committee with strong bipartisan support and was approved by the Senate. The bill subsequently died when the House of Representatives failed to act upon the reauthorization in the last Congress. Therefore, Senator COHEN and I seek to reauthorize the OGE, so that the agency can carry on its very important responsibilities.

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One way to think of OGE is that it is the ‘CIA’ of the executive branch. It is charged with investigating and recommending sanctions when the government fails to abide by its ethics laws. But the OGE is charged with far more than this. It has the important responsibilities of providing guidance, training, and education to all levels of government officials. The OGE is also charged with making sure that all levels of government have an ethics program in place which is adequate to the size and purpose of the particular government entity.

OGE is charged with monitoring the compliance of all levels of government with the ethics laws. This is an extensive responsibility. We have national, state, and local governments which are being held accountable to the law. The OGE has a large staff of approximately 130 people which is not nearly adequate to the size and nature of the task. But the OGE has made many changes to strengthen the ethics laws since the Ethics in Government Act of 1978, which created OGE, was passed. We authored the Independent Counsel provisions of the Ethics in Government Act which provides for the appointment of an independent counsel to investigate allegations of criminal wrongdoing by top level Executive Branch officials, and we worked together to strengthen the revolving door laws. Moreover, Senator LEVIN and I have consistently sought to aid OGE in its mission of providing overall direction to the Executive Branch in developing policies to prevent conflicts of interest and ensure ethical conduct by Executive Branch officials and employees.

The reauthorization bill Senator LEVIN and I are introducing today is nearly identical to the legislation we introduced last Congress which was passed by the Senate and the House. Unfortunately, however, no action was taken by the House of Representatives prior to Congress’ adjournment.

OGE’s authorization expired on September 30 of last year. It is very important, therefore, that the Congress move as quickly as possible to reauthorize the agency. The bill will reauthorize OGE for seven years. This is a slightly longer reauthorization than we have sought in previous years. As in the past, we want to avoid the need to reauthorize OGE during the first year of a Presidential term when a large portion of OGE’s resources are devoted to the nominee clearance process.

The bill would also, for the first time, grant OGE acceptance authority to address the problem that arises when federal government facilities are not adequate either in terms of size or equipment resources to accommodate OGE’s ethics education and training programs which are held around the country. This authority is intended to enable OGE to accept the use of certain non-federal facilities, such as an auditorium that might be offered by a State or local government or a university which may be better suited for OGE’s needs.

As I have often noted in the past, the Office of Government Ethics is a small office with large responsibilities. Over the years, we have imposed more responsibilities on OGE and we haven’t always provided the necessary staff or resources to carry out those responsibilities. Specifically, I would note the additional functions OGE had to perform when it became an independent agency in 1988 and in complying with the Ethics Reform Act of 1989. Congress moved to make OGE a separate agency because it was believed that OGE was not independent enough. In addition,
interpretation; from reviewing financial disclosure forms to auditing agency ethics programs.

In the process of developing this bill, the Oversight Subcommittee reviewed OGE’s budget, its personnel, and its accomplishments. Based on that effort, the Committee is satisfied that the OGE has improved in areas where weaknesses were identified in the past and that the agency is currently on track in performing its duties in an effective, professional manner.

In addition to reauthorizing OGE, this bill would give OGE authority to accept donations or gifts that would facilitate the agency’s work. A federal agency can’t accept gifts unless it has specific statutory authority to do so. Many agencies have such authority but, up until now, the OGE has not been one of those agencies. The reason OGE seeks this authority is in connection with its training mission. OGE conducts multiagency ethics training sessions around the country, and sometimes there is no nearby Federal facility that is appropriate in terms of size and services. This gift acceptance authority would allow the OGE to accept the use of non-Federal facilities—for example, auditorium and services such as might be offered by a State or local government or a university.

I hope that the Senate will act quickly in reauthorizing this important agency.

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, Mr. CONRAD, and Mr. GRAHAM):

S. 700—To amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, to modify the basis rules for nonresident aliens becoming citizens or residents, and for other purposes; to the Committee on Finance.

TAX LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation designed to address a problem that has come to light recently concerning the ability of U.S. citizens to avoid taxes by abandoning their citizenship. We should not countenance the evasion of taxes by those who renounce their citizenship. The Senate should act to address this problem expeditiously, and the bill that I introduce today will, I hope, represent significant progress towards that end. It is a revision of provision passed by the Senate Finance Committee recently, and responds to some of the criticisms that have been raised concerning the original proposal.

A genuine abuse exists in this area. Although the current tax code contains provisions, dating back to 1966, designed to address tax-motivated relinquishment of citizenship, these provisions have proven difficult to enforce and are easily evaded. One international law expert described the effort, I profitably called a child’s play. Individual. This substantial wealth can, by renouncing U.S. citizenship, avoid paying taxes on gains that accrued during the period that they acquired their wealth and were afforded the myriad advantages of U.S. citizenship. Moreover, even after renunciation, these individuals can maintain substantial connections with the United States, such as keeping a residence and maintaining United States for up to 120 days a year without incurring U.S. tax obligations. Indeed, reports indicate that certain wealthy individuals have renounced their U.S. citizenship and avoided their tax obligations while maintaining their families and homes in the United States, being careful merely to avoid being present in this country for more than 120 days each year.

Meanwhile, the rest of Americans who remain citizens pay taxes on their gains when assets are sold or when an estate tax becomes due at death.

It was this Senator who made the first proposal in the Senate to deal with the expatriation tax abuse. On February 6, the President announced a proposal to address the problem in his fiscal year 1996 budget submission. Three weeks ago, on March 15, during Finance Committee consideration of the bill to restore the health insurance deduction for self-employed, I offered a modified version of the administration’s expatriation tax provisions as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of above-the-line itemized deductions as a funding source for the bill. The amendment failed when every Republican member of the Committee voted against it. Subsequently, Senator BRADLEY offered the expatriation provision as a free-standing amendment, with the $3.6 billion in revenue that it raised to be dedicated to deficit reduction. Senator BRADLEY’s amendment passed by voice vote. That is how the expatriation tax provision was added to the bill that came before the Senate.

After the Finance Committee reported the bill, but before full Senate action and conference with the House, the Finance Committee held a hearing to further review the issues raised by the expatriation provision. Tax legislation routinely gets polished in its technical aspects as it moves through floor action and conference. At the Finance hearing, we heard criticisms of some technical aspects in the operation of the provision, as well as testimony on the conduct of the debate over the week. I would point out that the legislation restoring the self-employed’s health insurance deduction for calendar year 1994 needed to be passed and signed into law well in advance of this year’s April 17 tax filing deadline, so that this self-employed would have time to prepare and file their 1994 tax returns. The decision regarding the expatriation provision had to be made without further opportunity of deliberation. I opposed not to risk making the wrong decision with respect to international law and human rights.

The decision to drop the expatriation tax provision from the final conference version of the bill has been the subject of much debate over the week. I certainly don’t presume to speak for the other conferees. But for myself I repeat as I have said on two occasions on this floor over the past week: we should proceed with care when we are dealing with human rights issues, particularly when the group involved is a despised group—that is, millionaires who renounce their citizenship for money.

As the Senator who first proposed the expatriation tax provision, I will see this matter through to a conclusion. We are getting more clarity on these matters, and it appears that a consensus is developing to the
effect that the provision does not conflict with our obligations under international law. In particular, it is worth noting that Professor Hannum, who first wrote to me on March 21 expressing his concern that that expatriation provision would create a problem under international law, has, after receiving additional and more specific information about the expatriation tax, now written a second letter of March 31 stating that he is convinced that neither its intended nor its collateral effect would violate present U.S. obligations under international law. This is the growing consensus, although it is not unanimous.

As for criticisms of the technical difficulties of the original proposal, I believe they can be satisfied. Indeed, I would venture that if some of those criticizing the provision’s technical aspects had put even half as much effort into devising solutions as in highlighting shortcomings, we would already be much further along toward a satisfactory status.

One final point of utmost importance. As we take the time to write this law carefully, billionaires are not slipping through some loophole and escaping tax by renouncing their citizenship. As I announced the original proposal on February 6, and made it effective for taxpayers who initiate a renunciation of citizenship on or after that date, this was an entirely appropriate way to put an end to an abuse that was under current law. Both the proposal that I initiated, and the one that was ultimately adopted by the Finance Committee, also used February 6, 1995, as the effective date of the new provision preventing tax evasion through expatriation. The House conferees had proposed slipping the effective date to March 15, 1995—the date of the Senate Finance Committee action on the provision. The two chairmen of the tax-writing committees ultimately resisted that overture, and have issued a joint statement giving notice that February 6 may be the effective date of any legislation affecting the tax treatment of those who relinquish citizenship. Given the potential for abuse under current law, I believe that February 6 must be the effective date for a new rule. In any event, given the President’s announcement in the budget, the Finance Committee action, and the joint statement of the two chairmen of the tax-writing committees who are contemplating renunciation of their U.S. citizenship are on fair notice of the February 6, 1995, effective date.

To repeat, as the Senator who first offered the proposal to end the expatriation tax abuse, I will do everything I can to see that this matter gets resolved. We will do it this session. Fundamental justice to all paying Americans requires no less.

In an effort to advance that goal, I am bringing to your attention legislation embodying a revised expatriation tax proposal. I do so in the interest of ensuring that the issues that have been raised are addressed satisfactorily, and in a timely manner. This bill represents a serious effort to address the criticisms that have been raised, and I believe it represents a major step forward. It will provide an opportunity for congressional review and, in addition, I anticipate that the Joint Committee on Taxation will include an analysis of this bill in its comprehensive study of the subject of expatriation that the Committee staff has been directed by the chairman of the Joint Committee.

Mr. President, we will end this abuse, and promptly, but in a careful and orderly way, as we should do in matters of this importance.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the Record.

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

S. 700
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF TAX RULES ON EXPATRIATION.
(a) In General—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 871F the following new section:

SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

(a) General Rules.—For purposes of this section:

(1) Mark to Market.—Except as provided in subsection (b)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

(2) Recognition of Gain or Loss.—In the case of any sale under paragraph (1)—

(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1092 shall apply (and section 1092 shall apply) to any such loss.

(3) Election to Continue to Be Taxed as United States Citizen.—

(A) In General.—If an expatriate elects the application of this paragraph with respect to any property—

(i) this section (other than this paragraph) shall not apply to such property, but

(ii) such property shall be subject to tax under this title in the manner as if the individual were a United States citizen.

(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount which would (but for this subparagraph) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $500,000.

(C) Property Treated as Held.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

(i) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11), or

(ii) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

(b) Exceptions.—The following property shall not be treated as sold for purposes of this section:

(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation that is treated as sold in the expatriation date, meet the requirements of section 897(c)(2).

(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

(A) In General.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

(B) FOREIGN PENSION PLANS.—

(A) In General.—Any regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

(i) Limitation.—The value of property which is treated as sold by reason of this subsection shall not exceed $500,000.

(C) Definitions.—For purposes of this section:

(1) EXPATRIATE.—The term ‘‘expatriate’’ means—

(A) any United States citizen who relinquishes his citizenship, or

(B) any long-term resident of the United States who—

(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment,

(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and that country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.
The term ‘expatriation date’ means—

(A) the date an individual relinquishes United States citizenship, or

(B) the date an individual is a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

(A) the date the individual renounces his United States citizenship before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)), or

(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States citizenship confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)), or

(C) the date the United States Department of State issues the individual a certificate of loss of nationality, or

(D) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

(4) LONG-TERM RESIDENT.—

(A) IN GENERAL.—The term ‘long-term resident’ means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the individual furnishes a statement under subsection (1) treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country because the individual waives the benefits of such treaty applicable to residents of the foreign country.

(B) SPECIAL RULE.—For purposes of subparagraph (A) there shall not be taken into account—

(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring;

(ii) any taxable year prior to the taxable year referred to in clause (i).

(5) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

(1) DETERMINATION OF BENEFICIARIES’ INTEREST IN TRUST.—

(A) GENERAL RULE.—A beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

(i) the methodology used to determine that taxpayer’s trust interest under this section, and

(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary’s trust interest under this section.

(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

(A) the individual shall not be treated as having sold such interest,

(B) such interest shall be treated as a separate trust consisting of the assets allocable to such share,

(i) the separate trust shall be treated as having sold its assets immediately before the expiration of the period of 8 taxable years during which the individual furnishes a statement under subsection (1) treated as occurring, or

(ii) the separate trust shall be treated as having sold its assets immediately before the expiration of the period of 8 taxable years during which the individual was treated as having distributed all of its assets to the individual as of such time, and

(C) such separate trust shall be treated as a separate trust consisting of the assets allocable to such share.

(ii) the separate trust shall be treated as having sold its assets immediately before the expiration of the period of 8 taxable years during which the individual was treated as having distributed all of its assets to the individual as of such time, and

(iii) the separate trust shall be treated as having distributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(i).

(iii) the separate trust shall be treated as having sold its assets immediately before the expiration of the period of 8 taxable years during which the individual was treated as having distributed all of its assets to the individual as of such time, and

(iv) the separate trust shall be treated as having distributed the assets to the separate trust.

Subsection (a)(3) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(i).

(5) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual and treated as sold under subsection (a), notwithstanding any other provision of this title—

(1) any period during which recognition of income or gain is deferred shall terminate, and

(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

(B) RULES RELATING TO PAYMENT OF TAX.—

(1) IMPOSITION OF TENTATIVE TAX.—

(A) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately after the due date for filing the tax return for such taxable year, an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

(C) DETERMINATION OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

(2) DEFERRAL OF TAX.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6015 to such number of years as the Secretary determines appropriate.

(3) RULES RELATING TO SECURITY INTERESTS.—

(A) ADEQUACY OF SECURITY INTERESTS.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

(B) SPECIAL RULE FOR TRUST.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

(C) COORDINATION WITH INCOME TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3), then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

(I) appropriate adjustments are made to begin to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

(II) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

(III) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary of the trust holds directly under subsection (f)(1)(C).

(4) CROSS REFERENCE.—

For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).

(5) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

(7) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual who is an expatriate shall be treated as a United States citizen before the date on which the individual’s citizenship is treated as relinquished under section 877A(e)(3).

(6) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

(7) (F) APPLICABILITY.—This section shall not apply to any individual who relinquishes (within the meaning of section 877Are(e)(3)) United States citizenship on or after February 6, 1995.

(2) Section 2107(c) of such Code is amended by adding at the end the following new provision:

(7) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new provision:

(7) For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsections (e) as (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the
following new sentence: “This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).

(d) Cross-referencing.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the last item relating to section 877 the following new items:

“Sec. 877A. Tax responsibilities of expatriation.”

(e) Effective date.—

(1) In general.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date occurs on or before the date of the enactment of this Act.

(2) Due date for tentative tax.—The due date under section 877A(h)(1)(B) of such Code shall not occur before the 90th day after the date of the enactment of this Act.

SEC. 2. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) In general.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for gain or loss on dispositions of property by an alien) is amended by redesignating section 1061 as section 1062 and by inserting after section 1061 the following new section:

“Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

(1) APPLICABLE DATE.—For purposes of this section the date an individual ceases to be a nonresident alien shall be the date such individual becomes a United States citizen or resident of the United States, or the date the individual becomes a lawful permanent resident of the United States. If the individual leaves the United States before the date referred to in this paragraph, the date the individual becomes a United States citizen or resident shall be the date the individual reenters the United States. If subsection (d) applies to the individual the date such subsection applies shall be deemed the date the individual ceases to be a nonresident alien. If the individual is a nonresident alien who is deemed to be domiciled in a foreign country, the date referred to in this paragraph shall be the date the individual ceases to be deemed to be domiciled in the foreign country. The term ‘person’ does not include an individual who is treated as a resident of a foreign country under the provisions of a treaty and who ceases to be subject to U.S. income tax by reason of the application of a tax treaty or because of changes in the tax treaty which do not affect the treatment of the individual as a nonresident alien.

(2) EXPENSES.—Generally, any expenses of a U.S. citizen or resident of the United States or any foreign person who becomes a resident of the United States shall be allocated approximately in proportion to the amount of the gain or loss on the disposition of such asset.

(3) OFFER.—If, at the time of the offer to pay the tax under section 1061, there is a dispute as to the correct basis of the asset, the basis shall be determined by appraisal or arbitration, or in any other manner determined by the Secretary of the Treasury. If the person paying the tax has paid an amount sufficient to pay the tax on the basis on which such person so pays the tax, the Secretary of the Treasury shall immediately refund any excess payment to such person and shall adjust the basis of any asset designated by such person for which payment was made.

(4) ELECTION TO BE TREATED AS A U.S. CITIZEN OR RESIDENT.—An individual may elect not to have his or her tax basis for the tax on the disposition of such asset calculated in accordance with subsection (a) (with respect to any asset). If an individual fails to make such a determination, the Secretary shall be deemed to have made such a determination in accordance with subsection (a).

(5) TECHNICAL CORRECTIONS.—Section 1062(d)(2) is amended by striking the last sentence and inserting in lieu thereof—

‘‘(2) The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 1) applies.’’

SEC. 3. ELECTION TO BE TREATED AS A U.S. CITIZEN.

Each taxpayer would be allowed to irrevocably elect, on an asset-by-asset basis, to continue to be taxed as a U.S. citizen with respect to assets designated by the taxpayer. The election would continue to apply to any property in which the taxpayer continued to pay U.S. income taxes following expatriation on any income generated by a designated asset and on any gain from the disposition of the asset, as well as any tax imposed with respect to the asset (see e.g., section 1891). In addition, the asset would continue to be subject to gift, estate, and generation-skipping transfer taxes.

However, the amount of any transfer tax so imposed would be limited to the amount of income tax that would be due if the property were not designated for the tax. The rule would be disregarded. The tax on expatriation could also be extended for resetting the 8-year threshold, taxable years for purposes of section 877A(b) and the regulations thereunder currently require any alien who physically leaves the country—regardless of the duration of the trip—to obtain a certificate from the IRS District Director that he has complied with all U.S. income tax obligations. This provision would be modified to require any citizen or resident alien of the United States who becomes a nonresident to file a tax return within 90 days of the date that he ceases to be a U.S. citizen or resident, and pay the relevant tentative tax. No tax return would be required of a departing alien who intends to maintain U.S. residence.

5. TECHNICAL CORRECTIONS

A. Allow deferral of tax on expatriation

Payment of the tax on expatriation should be extended in circumstances that are similar to those under which estate taxes may be extended under current law. Therefore, the time for the payment of the tax on expatriation could be extended for an additional 10 years at the request of the taxpayer, as provided by section 6161 (without regard to the ten-year limitation of that section). In addition, the tax on expatriation could be deferred on interests in closely-held businesses as provided in section 6166. The tax on expatriation could also be extended for remote or remainder interests in property as provided in section 6166. Payment of tax liabilities could also be extended under section 6139 to facilitate the collection of tax liabilities.

B. Method of providing security

If a taxpayer is required to provide security under this section, it is anticipated that in many cases adequate security could be provided by contributing assets to a trust (e.g., a revocable trust under section 2056A). Other mechanisms determined to be effective by the Secretary could be used, such as providing a bond or letter of credit. If an expatriating individual is beneficiary of a trust, and the beneficiary elects to defer payment of the tax on expatriation with respect to the trust trust interest, a U.S. trustee of the trust would continue to be subject to the regulations under section 1491. In all other cases in which the trust is not a U.S. trust, the Secretary would require the tax on expatriation to be paid in full before the 90th day after the date of the enactment of this Act.
C. Exceptions for relinquishment of citizenship by certain minors

The tax on expatriation would not apply to an individual who resided in the United States for 18 or more years and relinquishes U.S. citizenship by the age of 18 years and 6 months.

D. Ownership of interests in trusts

The tax on expatriation would apply to any interest in a trust which is not determined under the general facts and circumstances rule of section 677A(f)(1)(A)(ii) for less than five years and relinquishes U.S. citizenship by the age of 18 years and 6 months.

E. Coordination with estate and gift tax rules

The tax on expatriation would be allowed as a credit against U.S. estate or gift taxes to the extent that the property subject to the tax on expatriation is subsequently subject to additional U.S. estate or gift taxes solely by reason of the estate or gift tax provisions of sections 2037 and 2503.

Mr. BRADLEY. Mr. President, I rise this afternoon to introduce, along with Senator MOYNIHAN, a bill that would close a tax loophole that allows wealthy citizens who renounce their American citizenships to avoid paying their fair share of U.S. taxes. As a member of the Finance Committee, I offered a similar amendment to H.R. 831 that would have closed this loophole. My amendment would have dedicated all of the savings from closing this loophole to deficit reduction. According to estimates of the Joint Committee on Taxation, my amendment would have reduced the deficit by approximately $3.6 billion over the next 10 years.

Unfortunately, although the Finance Committee adopted this amendment on an unrecorded voice vote and the Senate approved it as part of H.R. 831, the joint House-Senate conference committee deleted this loophole. The bill that we are introducing today would close this loophole once and for all.

Mr. President, this bill is fundamentally about fairness. Not only is it fair to those who enjoyed the benefits of U.S. citizenship to make billions and are now attempting to avoid paying tax on such gain, it is also fair to those Americans who stay behind to shoulder the burdens of citizenship. All this bill would do is treat those who renounce their U.S. citizenships and run with AmERICANS who stay and pay their share of the tax burden.

While U.S. citizenship confers tremendous benefit, it also requires responsibility. Although we may not always be happy about the amount, most of us willingly pay our fair share of the tax burden. However, for many Americans it becomes just too much when they have to pay not only their share of taxes but also an additional share for the few wealthy individuals who made their money in this country, but are now trying to skip town without paying their portion of the tab.

Significantly, this bill would exclude pension income, real estate assets, and the first $500,000 in gain. As a result, of the roughly 850 U.S. citizens who renounced their citizenships in 1994, only a handful would be affected by the elimination of this loophole. In fact, representatives from the Treasury Department testified that provisions similar to those contained in this bill would affect only 24 Americans each year.

Mr. President, significant deficit reduction will be necessary to put our country back on the right track. However, until we close these special-interest tax loopholes for the few, we cannot ask for the shared sacrifice from the many that will be necessary to reduce the deficit.

By Mr. SIMON:

S. 701. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations to the Committee on Finance.

THE EQUITY INCENTIVE ACT OF 1995

• Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations.

Our current system of taxation encourages American businesses to use debt, rather than equity, to provide needed financing. My bill would encourage firms to shift from greater debt financing to more equity financing by limiting the interest deduction allowed corporations and allowing a deduction for dividends paid by corporations.

My proposal would be revenue neutral, although in the long run it should add to revenue because it would help the economy. I propose that, while 80 percent of interest payments remain deductible, 30 percent of the interest payments of all but the smallest corporations (including farm corporations) should be disallowed. And 50 percent of dividends should be deductible.

If a corporation borrows money to acquire another company or to buy equipment or for any other purpose, the interest on that debt is deductible, even though the debt can—and often does—put the corporation in a precarious position. But if the same corporation borrows money to put itself out of business or bankruptcy, neither of which are desirable goals. But if that corporation issues stock, and there is a downsizing in the economy, the only penalty the corporation must pay is that it cannot issue dividends. It can continue to thrive, employ people, and be a productive part of our society.

Our tax laws have encouraged corporations and banks and law firms to make “the fast buck”, rather than take the slow, constructive steps that are necessary to build their businesses and the economy of this Nation. I favor tax laws that give corporations deductions for research, for creating jobs, for adding to the productivity of the Nation.

My proposal would provide the incentive corporations need. It would encourage investment and help the growth of productivity. It would also help eliminate the excessive debt our country has accumulated, and it would go a long way toward strengthening the economy.

I urge my colleagues to support this legislation, Mr. President. It may need to be refined, but the idea is sound. I hope we can make it a part of the Tax Code.

By Mr. SIMON:

S. 704. A bill to establish the Gambling Impact Study Commission; to the Committee on Governmental Affairs.

THE NATIONAL GAMBLING STUDY COMMISSION ACT

• Mr. SIMON. Mr. President, today I am introducing legislation that would establish an 18 month commission to review the impact gambling has had on State and local governments, and natiVE American tribes. As these entities find themselves strapped for financial resources, many public officials and residents believe gambling can be an economic panacea.

Gambling is now one of the largest growth industries in the country. Legal wagering now totals almost $600 billion compared to $17.3 billion in 1974, according to the last—and only—national gambling study released in 1976 by the Commission on the Review of the National Policy Toward Gambling.

Federal policy on gaming should not be a moral one, rather it should be a practical one. Gambling is a matter of personal choice, and I have no problem with individuals who enjoy and are able to play the lottery or the slots. But I am concerned with the substantial costs to individuals, families, and society. Legalized gambling can lead to problem and pathological gambling, deterioration of family relationships, lost work productivity, unpaid taxes, bankruptcies, higher crime rates, and increased costs to the criminal justice system.

On the other hand, legalized gambling offers the promise of economic development, tourism, increased jobs and tax revenues, which is extremely appealing to State, local and tribal governments that compete with one another for financial resources.

While State governments have primary responsibility for regulating gambling, the scope of gaming has broadened to a national level in recent years. I am introducing the Gambling
The Federal Government will be able to improve the efficiency and effectiveness of the Supplemental Security Income (SSI) Medicaid program—a program which now consumes 70 percent of Medicaid costs yet serves only 30 percent of the Medicaid population—by better disseminating financial responsibility for providing certain elderly low-income individuals and non-elderly low-income disabled individuals with benefits under the Medicare program under title XVIII of the Social Security Act and long-term care benefits under a new Federal program established under title XIX of such act, and for other purposes; to the Committee on Finance.


Mrs. KASSEBAUM. Mr. President, I rise today to introduce a revision of the “Welfare and Medicaid Responsibility Exchange Act of 1995” with my colleague Senator BROWN. This legislation incorporates the changes which I indicated would be forthcoming when we introduced the “swap” legislation earlier this year.

The basic principle embodied in both this and the earlier proposals is that true reform will occur only when there is a clear delineation of responsibilities between the federal and state governments.

The legislation we are introducing today devotes to the states responsibility for the nation’s largest welfare programs—Aid to Families with Dependent Children (AFDC), Supplemental Food Program for Women, Infants and Children (WIC), Food Stamps, and the AFDC portion of Medicaid. In exchange, the Federal Government will assume responsibility for that portion of the Medicaid program designed to provide acute care and long-term care to elderly and disabled Americans.

Currently, the overlapping regulation and dual administration of the AFDC and Medicaid programs, in particular, has resulted in a significant lack of accountability. In contrast, this legislation makes a clear-cut decision about who will administrate the programs, who will finance them, who will make key decisions, and who will be responsible for the outcomes.

This legislation will allow both the States and the Federal Government to build a more cohesive safety net for the populations each sector is serving. At the end of a five-year transition period during which the States will be freed from the vast majority of restrictive Federal regulations, the States will have complete autonomy for designing welfare programs for low-income individuals—without Federal mandates, but with their own money at stake.

The Federal Government is committed to improving the efficiency and effectiveness of the Supplemental Security Income (SSI) Medicaid program—a program which now consumes 70 percent of Medicaid costs yet serves only 30 percent of the Medicaid population—by better disseminating financial responsibility for providing certain elderly low-income individuals and non-elderly low-income disabled individuals with benefits under the Medicare program under title XVIII of the Social Security Act and long-term care benefits under a new Federal program established under title XIX of such act, and for other purposes; to the Committee on Finance.


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Section 210 of PURPA encourages QFs in two ways. First it requires electric utilities to purchase the power they produce—whether or not it is needed by the utility—to pay an avoided cost price for the electricity purchased from the QF—which may or may not bear any relationship to actual market price.

When PURPA was enacted, everyone thought that it would benefit primarily unconventional power generating facilities, such as solar, geothermal, wind, and waste. These were unproven technologies at the time, and even with the host of benefits provided by PURPA plus tax incentives, it was not clear that they could ever be profitable. Instead, PURPA has primarily benefitted the more traditional turbin-based cogenerators. According to data from the Edison Electric Institute, more than three-fourths of installed QF generation capacity are cogenerators. Small power producers, solar, geothermal, wind and waste—account for less than one-fourth of installed QF generation capacity.

PURPA was also enacted on the assumption that it would not increase the price of electricity to consumers. Congress thought that it had guarded against this by limiting the price of QF electric to benefit consumers and our economy, it is time for PURPA section 210 to become more competitive.

Third, and most importantly, the market itself denies everyone the luxury of avoiding competition. Thus, the repeal of PURPA section 210 will not adversely affect consumers.

Mr. President, while everyone agrees that renewable energy can and should play a role in the future energy mix, that should not be accomplished through PURPA’s mandated purchase requirement. In this connection, I might note that there are other programs on the books to promote renewables. For example, section 1212 of the Energy Policy Act of 1992 provides a renewable energy production incentive of 1.5 cents per kilowatt hour, subject to appropriations, for solar, wind, biomass, and geothermal powerplants.

Section 1914 provides a tax credit of 1.5 cents per kilowatt hour for wind and closed-loop biomass. This is not subject to appropriations, for solar, wind, biomass, and geothermal powerplants. Section 1914 provides a permanent extension of the energy investment credit for solar and geothermal properties.

Mr. President, I am a strong believer in competition. The more, I am introducing does not abrogate existing contracts; they will continue to operate by their own terms. Section 4 of the bill specifically states that “Nothing in this Act abrogates any existing contract.”

Mr. President, it is clear the time has come to repeal section 210 of PURPA. It is distorting competition and it is hurting consumers. It is time to substitute the discipline of the market for the price floor. In essence, it is time for PURPA section 210 to go. I urge my colleagues to join me in my efforts to update our energy policy to benefit consumers and our economy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

section 1. Short title.

This Act may be cited as “The Electric Utility Ratepayer Act.”

section 2. Findings.

The Congress finds that—

(1) implementation of section 210 of the Public Utility Regulatory Policies Act of 1978 results in many consumers paying excessive rates for electricity; and

(2) the Energy Policy Act of 1992 gives producers of electricity additional access to the wholesale electric market through transmission access and exemption from the Public Utility Holding Company Act; and

(3) in light of the increasingly competitive wholesale electric marketplace being brought about by the Energy Policy Act of 1992, there no longer is any justification for section 210 of the Public Utility Regulatory Policies Act of 1978.

section 3. Repeal.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) is hereby repealed.

section 4. Transition.

Nothing in this Act abrogates any existing contract.

section 5. Effective date.

The provisions of this act are effective April 7, 1995.

By Mr. BOND (for himself and Mr. BRYAN):

S. 709. A bill to amend the Fair Credit Reporting Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Consumer Reporting Reform Act

Mr. BOND. Mr. President, I join my colleague, Senator BRYAN, in introducing the Consumer Reporting Reform Act of 1995. We have spent several sessions of Congress in perfecting this legislation, and I expect this bill to enjoy wide bipartisan support. In particular, this legislation balances the needs of the consumer to have accurate credit information, while ensuring that the credit industry provides such information without the imposition of unreasonable regulatory burdens.

The Fair Credit Reporting Act is overdue for revision and reform. I know that we have all heard too many horror stories about inaccurate credit information and the inability of consumers to get the information corrected. The Fair Credit Reporting Act was written long before computer technology was as sophisticated as it is today. These technological advances have meant a drastic increase in the amount of information that can be kept and is kept on individuals. Current law simply does not adequately protect consumers.

For example, currently the law only requires that credit bureaus reinvestigate within a reasonable period of time. It was not uncommon for it to take months, even years, to get a credit report corrected and cleaned up. And even in cases where a consumer does succeed in getting the incorrect information removed or corrected, there is nothing to prevent the incorrect information from being put back on the credit report.

I believe that the single most important consumer protection provision in this legislation is the 30-day limit on the reinvestigation procedure. If the disputed information cannot be substantiated or is found to be inaccurate within 30 days, then it is corrected or removed from the credit report and cannot be reinserted without a notice to the consumer.
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This is the cornerstone of the legislation—the most significant improvement over current law.

In addition, I realize that the credit bureaus have voluntarily instituted a 30-day standard in recent years, but there is no law behind it to hold them to it. I congratulate the credit bureaus for taking steps to make the system more accurate, but I feel that legislation is still needed. It was the threat of this legislation that has cleaned up the system, and I think we have an obligation to finish the job. This legislation, in particular, will address concerns about accuracy in the system and the need for consumer privacy.

I emphasize that I have met with many of my constituents to listen to their horror stories of trying to fix mistakes on their credit reports. They have met with many of the same obstacles that millions of other consumers have faced—months of waiting for their credit reports to be fixed, unfixed credit grantors who are unresponsive, and no one to talk to who will listen to their complaints. As you know, these problems are not new. I have been hearing about these problems for years and trying to find a way to address them. This legislation is designed to address these problems.

Because it traditionally takes a long time for the credit bureaus to respond and fix credit reports, the bill requires the process to be completed in 30 days. As I have said, if the information in the report cannot be verified by the creditor who submitted it within 30 days, it will be removed from the report. In addition, it cannot be reinserted later unless the consumer is notified.

When a consumer goes through the re-investigation process with the credit bureau and the problem is still not fixed, our bill gives the consumer the right to sue the creditor who will not fix the information submitted to the credit bureau.

This bill also contains limited Federal preemption to ensure that there are uniform Federal standards to govern a number of procedural issues which are part of credit reporting and which will reduce the burdens on the credit industry from having to comply with a variety of different State requirements. For example, the bill preempts requirements regarding prescreening, shared information, among affiliates, re-investigation timeframes, obsolescence time periods and certain disclosure forms.

In addition, the civil liability section makes absolutely clear that there are no private causes of action against a furnisher after that furnisher has had an opportunity to re-investigate and fix any mistakes.

I believe that this legislation is a well-balanced bill. All interested parties benefit from this bill. The free flow of accurate information will help all sides by promoting good economic decisions in our free market economy.

Consumers get increased disclosure and a 30-day re-investigation time period and the credit industry gets a limited Federal preemption, the ability to share information among affiliates, and broader prescreening abilities.

So, Mr. President, I join Senator Bond today in introducing amendments to the Fair Credit Reporting Act. I want to again express my appreciation for the efforts of Senator Bond. I have enjoyed teaming up with him on many issues and look forward to continuing this friendship and productive working relationship.

As those who follow this issue know, Senator Bond and I came extremely close to getting similar legislation enacted into law last Congress. Versions of this bill passed the Senate 87 to 10 and passed the House of Representatives on several occasions. Unfortunately, because this came up at the end of the session, one Senator was able to lock the bill into the investigative stage.

I am confident we can get this legislation to the President’s desk this year.

This legislation is similar to the version that passed the Senate and House of Representatives last year. Senator Bond and I have made some refinements but the guts of the bill are intact.

The heart of this legislation is the investigation process which is undertaken when a consumer discovers a mistake on his or her credit report. We all know that mistakes will occur when you are entering billions of pieces of data in computer banks every month. That is inevitable.

What is not inevitable is the frustration consumers experience getting these mistakes removed from their files. This bill requires credit bureaus and the businesses which supply information to verify it within 30 days or remove it from the consumer’s file. Thereby, the burden of proof is transferred from consumers to businesses to verify the accuracy of the information in a file.

I was struck by the testimony of Nevadans who were forced to jump through a series of hoops to prove that the information in their file was faulty. They spent countless hours on the telephone trying to track down information and to explain to credit bureaus what mistakes have been made. Through no fault of their own, these people were put through the ringer. This legislation should rectify this situation.

The bill also brings businesses who furnish information into the regulatory process. Without such a provision, bad actors can wreak havoc on the credit reporting system and on consumers. I would have preferred a higher standard of liability for these businesses but believe this is a good first step.

On this point, I must express my total disgust at the behavior of the J.C. Penney Co. In my entire career of public service, I have never seen a more disingenuous lobbying effort by any organization, and I will not soon forget it.

This legislation tries to craft a delicate balance on the issue of State preemption. Senator Bond and I are both former Governors so we take States’ rights very seriously. We have tried to preempt those areas of this law which affect the operational efficiencies of businesses but do not harm consumers. Setting a national uniform standard for disclosure forms or timetables, does not set the consumer movement back, yet should help the business community operate more efficiently.

I would like to put everyone on notice that I feel very strongly that we should not preempt States’ rights in the area of liability—particularly if we set a low-liability standard as we do in this bill. Certain members of the business community have and will continue to push to preempt this area of State law, but I will fight such efforts and will have to reconsider the merits of this bill, should I lose on this issue.

I believe the issues in this bill have been compromised and refined over several years of consideration and do not need much more massaging. They represent an equitable balance with benefits to both the consumers and businesses. I hope we can move this along swiftly. I urge my colleagues support.

By Mr. KERREY:

S. 710. A bill to promote interoperability in the evolving information infrastructure maximum competition, innovation, and consumer choice, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS INTEROPERABILITY ACT

Mr. KERREY. Mr. President, earlier this week I came to the floor of the Senate to discuss my concerns relating to the pending Telecommunications Competition and Deregulation Act of 1995, S.652. I have been concerned that this bill does not do enough to promote competition and consumer choice. As we on Capitol Hill work to revamp the regulatory regimes governing the telephone and cable television companies of today, a much larger dynamic is taking hold in our country.

The digital age is upon us, and we must try to take this larger picture into view if we are to be truly effective in our efforts to pass telecommunications reform that will serve our country, not only today, but tomorrow, and for the years to come. We need to take this opportunity, not only to address the regulatory issues currently being discussed, but to think about what kind of world we want this digital age to create.

Today, I am introducing legislation, the Telecommunications Interoperability Act of 1995, that I hope will stimulate a vigorous public debate on how we can best achieve a truly ubiquitous National Information Superhighway. I am
introducing this bill as a discussion vehicle, and welcome reactions or comments on this legislation from interested parties.

The National Information Superhighway, or National Information Infrastructure as it is called, is evolving as we speak. This new digital age brings with a convergence of technology and vast new opportunities for Americans to gather and disseminate information. This NII pays no mind to the locked and isolated information silos that have existed in the past. The NII is a conglomeration of pieces, including various high-speed, interactive, narrow and broadband networks that exist today and will emerge tomorrow. It is the satellite, terrestrial, and wireless technologies that deliver content to homes, businesses, and other public and private institutions. The NII is a term that encompasses all the pieces and conveys a vision for a nationwide, invisible, seamless, dynamic web of transmission mechanisms, information appliances, content and people. This ubiquitous network of networks has the potential to improve the quality of life for all Americans—regardless of location, age, economic status, or physical location. However, this potential will only be realized if we have interoperability in our information infrastructure.

Interoperability is the ability of two or more systems to interact with one another. Interoperability also allows diverse systems made by different vendors to communicate with each other so that users do not have to make major adjustments to account for differences in products and services. Open interfaces at critical points of connection will allow interoperability to occur. Interoperability will allow components of the NII to work together easily and transparently. A high school student in Nebraska will be able to use research facilities anywhere in the country, and discuss that research with students at distant schools. It will allow teachers in Nebraska to share information about experiences with other teachers around the country. If, while on vacation, a person becomes ill, a doctor in another state will be able to easily reach the family physician in Nebraska to consult and access complete medical records online.

Interoperability will make the NII accessible to the broadest number of people—both users and vendors. Users will not be limited to a particular vendor's products. Vendors will be able to make their services available to anyone who wants to use them. A small business or entrepreneur in Nebraska will be able to fully realize their potential digitally because from their home office they will have the ability to easily reach customers across the Nation and around the world.

Interoperability allows all Americans to be both information consumers and information providers. This means that a citizen in Lincoln, NE, will not only be able to access the vast amount of information using an information appliance of her choice, at the same time, she will also be able to publish her newsletter on fishing in Nebraska to interested readers wherever they reside.

Interoperability promotes competition among technologies, providers, and media, leading to the greatest number of choices, the lowest prices, and maximum innovation. Interoperability based on open interfaces, will help promote a level playing field for the future of communications. Rather than attempting to create or adapt regulations to ever changing technologies, open interfaces, and interoperability will help ensure access and competition by allowing new entrants into the marketplace.

Interoperability must be led by industry, but Congress can help by promoting the vision of an interoperable information infrastructure. It is not suggesting that Government get involved setting standards or dictating what technologies the private sector should use. What I am suggesting is that we all have an interest in monitoring the progress and facilitating the development of a system that will best serve American business, and American citizens.

Without interoperability, we will simply have pockets of information and services that will not be nearly as valuable because they will not be easily linked to other parts of the infrastructure. Interoperability will allow information to be transmitted between different technologies, allowing for the most efficient distribution of services. In some areas, wire lines or fiber optic cable may be dominant, while in other more rural areas we may need to rely on satellite and wireless technologies. Unless all these different parts of the system are interoperable, the digital age will divide us into information haves and have nots. I am concerned about the potential for rural States like mine to be left behind as the digital age charges forward.

The distinguished Senator from Maine introduced legislation earlier this week to promote competition and consumer choice in consumer electronics. The current legislation focuses on balancing the interests of both users and vendors who want to make their services available to anyone who wants to use them. A small business or entrepreneur in Nebraska will be able to fully realize their potential digitally because from their home office they will have the ability to easily reach customers across the Nation and around the world.

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This bill is only focused on one specific market area—communications. The legislation I am introducing today focuses on the bigger picture, providing a broader, over-arching vision for our digital information age.

By looking ahead, and providing some policy initiatives we can use this opportunity to address not only past and current regulatory issues, but to project some expectations for the future of communications. Expectations which include an information infrastructure that facilitates our educational system, expands commerce, improves the delivery of health care, and enhances participatory democracy.

I hope we will embrace this opportunity to herald the future.

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Communications Interoperability Act of 1995”.

SEC. 2. FINDINGS. The Congress finds that—

(1) the rapid convergence of communications, computing, and video technologies holds the promise of bringing revolutionary developments in the delivery of a variety of information and other communications services to the American public;

(2) interoperability will promote competition among technologies, providers, and media, leading to the greatest choices, lowest prices, highest value, and maximum innovation;

(3) interoperability at key interfaces of the developing information infrastructure of the United States will ensure that existing and new components work together easily, transparently, and independently of the components of today’s telephone systems;

(4) interoperability will help ensure that the information and communications infrastructure of the future will be available to the broadest number of people, both users and vendors of products and services;

(5) open interfaces at critical connection points are essential to achieving interoperability and the smooth transfer of information throughout the system; and

(6) the development of an interoperable information infrastructure based on open interfaces is in the interest of all Americans, and the Federal Government should act as a facilitator to achieve this goal.

SEC. 3. DEFINITIONS. As used in this Act:

(1) INTEROPERABILITY.—The term “interoperability” means—

(A) the ability of two or more systems (such as devices, databases, networks, or technologies) to interact in concert with one another, in accordance with a prescribed method, to achieve a predictable result;

(B) the ability of diverse systems made by different vendors to communicate with each other so that users do not have to make major adjustments to account for differences in products or services; and

(C) compatibility among systems at specified levels of interaction, including physical compatibility.

The compatibility described in subparagraph (C) should be achieved through open interface specifications.

(2) INTERFACE SPECIFICATIONS.—The term “interface specifications” means the technical parameters for the manner in which systems, products, and services communicate with each other and may be limited to the information necessary to achieve interoperability, leaving the implementation and remaining product design to the creative abilities of competitive suppliers.

SEC. 4. PROMOTING INTEROPERABILITY. The Federal Communications Commission, and other appropriate Federal Government agencies (such as the National Institute of Standards and Technology), shall monitor the voluntary industry standards processes,
and assist private sector standards bodies in the identification and promotion of open and interoperable interface specifications as needed.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. THURMOND, Mr. ABRAHAM, and Mr. GRASSLEY):

S. J. RES. 32. Joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS JOINT RESOLUTION

Mr. HATCH. Mr. President, I rise today to introduce a joint resolution expressing the Nation's gratitude to its law enforcement officers, and ask that it be passed by unanimous consent.

Every day, the brave men and women of our Nation's police forces put their lives on the line as they patrol our streets to keep the rest of us safe. These fine public servants are far too often all that stands between the rule of law and the tyranny of crime and chaos.

The job of a law enforcement officer is increasingly dangerous. Across America, 70 law enforcement officers were murdered in the line of duty in 1993. Assaults on officers are commonplace. Yet these men and women go out every day and perform their jobs with courage and integrity. They are being victimized by malicious, mean-spirited, and misleading verbal attacks from those who should know better.

Officers daily put their lives in jeopardy to prevent crime, and to investigate crimes that have been committed, in order to bring the guilty to justice. They are expected to act perfectly, with often imperfect information, and must ensure both the safety of the community and the integrity of the criminal justice process.

The Nation's police officers perform these tasks admirably. And on those rare and regrettable occasions when they falter, it is the police who are most aggrieved, seeking to redress the failure to uphold the public's trust. They recognize that without that trust, they cannot enforce the laws. So they forget the faith with which the police attempt to discharge their duty. Whenever the public is led to believe without cause that their law enforcement officers are less than true to their oaths "to serve and protect," the rule of law is endangered. For any society in which the law is in disrepute, or its fair enforcement in doubt, is only a shore step away from a society without law.

America owes a debt of gratitude to its police officers that it really cannot repay, however, Congress can and should take this opportunity to acknowledge that debt, and express the American People's thanks for the continuing service of its law enforcement heroes.

Mr. President, I urge my colleagues to join me in support of this joint resolution.

Mr. BIDEN. Mr. President, today, I and Senator HATCH, Mr. President, today, I and Senator HATCH are introducing a joint resolution to express the concern of the Congress regarding some recent remarks that inaccurately malign the integrity of the Nation's law enforcement officers.

It has been my privilege to work closely with our Nation's State and local police officers throughout my career. And, whether I have been dealing with officers who protect citizens in one of Delaware's smallest towns or those who patrol our Nation's largest cities, I have been impressed by the level of honor, commitment and integrity they have consistently upheld. Indeed, the evidence is that vast majority of our Nation's law enforcement officers are conscientious public servants who have a job where they must literally be willing to lay their life on the line everyday they go to work.

Let me be clear, I do not believe that there are no "bad apples" among the Nation's 540,000 police officers—as in every profession, there are "bad apples" who violate the law. But, this does not justify any sweeping indictment of the ethics of the entire police profession, any more than a case of malpractice by a doctor justifies sweeping criticism of the entire medical profession.

Because I believe it is simply unfair to make allegations about a whole profession based on the actions of a tiny minority and because I have enjoyed such a close and, I hope, mutually respectful relationship with our Nation's police officers, I am introducing this legislation so that the Congress is on record as recognizing the integrity of our Nation's police profession. I am happy to be joined by Senator HATCH on this measure, and I look forward to other Senators joining us in this effort.

The morale of our Nation's police officers is dependent upon the respect they feel from all of us, such is the case for any profession. This resolution is but one of many chances the Senate will have this year to indicate our confidence in our Nation's police. Later this year, I expect that the Senate will be faced with legislation that will nullify the Violent Crime Control Act of 1994 that will add 100,000 more police to our streets. Those who believe that our Nation's police do not live up to the highest ethical standards may oppose this effort to add 100,000 officers to their ranks. But, those of us who know that the overwhelming majority of our police meet these high standards, must protect this effort to add 100,000 state and local police to America's neighborhoods.

I admit that the resolution I introduce today offers but some small measure of rhetorical support. The real support for our Nation's police will be shown by continuing our commitment to add 100,000 more officers to the ranks of those who protect us all. I urge my colleagues to support this resolution.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. Reid, the name of the Senator from Washington [Mrs. Murray] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 240

At the request of Mr. Domenici, the names of the Senator from Idaho [Mr. Craig] and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 268

At the request of Mr. Gregg, the name of the Senator from Utah [Mr. Bennett] was added as a cosponsor of S. 248, a bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to revise the regulations relating to the programs, and for other purposes.

S. 256

At the request of Mr. Dole, the names of the Senator from Kentucky [Mr. McConnel] and the Senator from Utah [Mr. Bennett] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 256

At the request of Mr. Lautenberg, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of S. 256, supra.

S. 276

At the request of Mr. Pryor, the name of the Senator from Colorado [Mr. Campbell] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 277

At the request of Mr. D'Amato, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 360

At the request of Mr. Smith, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 360, a bill to amend title 23, United States Code, to eliminate the penalties imposed on States for noncompliance