should give high priority to working with partners in the Americas to address shared foreign policy and security problems in the Western Hemisphere; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 135. A resolution to authorize the production of records by the Committee on Rules and Administration; considered and agreed to.

By Mr. BIDEN (for himself, Mr. MACK, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mrs. BOXER, Mr. BRYAN, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mr. FRIST, Mr. FORD, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LOTT, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SMITH of Oregon, Mr. SPECTER, Mr. THOMAS, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 136. A resolution designating October 17, 1997, as ''National Mammography Day.''; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. MURKOWSKI):

S. 1279. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EMPLOYMENT TRAINING AND RELATED SERVICES DEMONSTRATION ACT AMENDMENTS OF 1997

Mr. CAMPBELL. Mr. President, today I am pleased to introduce legislation which amends the Indian Employment, Training, and Related Services Demonstration Act of 1992 (P.L. 102–477). The current Act has proven successful and represents one of the few programs that works for Indian country. I want to thank Senator MURKOWSKI for his work on his own ''477'' bill that takes aim at the specific problems experienced by Alaska natives in administering the 477 program. I am pleased to co-sponsor his and that he is co-sponsoring my legislation.

It is my hope that together we can develop amendments that will clarify and strengthen the program for American Indians and Alaska natives and lead to better training programs and higher job placements. The main reason for the success of the 477 program is that it relies on the tribes themselves to make the key decisions involving the design and implementation of employment training and related matters. This program puts tribes, not federal bureaucrats, in the driver's seat.

The Act empowers tribal governments to consolidate formula funds they receive for employment training and education services into one program—which in turn enables tribes to streamline services provided, while cutting administrative time and costs. The Act does contain certain limitations and in practice tribes have faced a few roadblocks.

This bill removes these limitations, expands programs affected by the Act, and broadens permissible job creation activities. The unemployment problem in Indian country is well-documented. Tribes currently suffer from a national unemployment rate of approximately 52%, with some like the Oglala Sioux Tribe suffer from a rate of 95%. In comparison, the national unemployment rate is 6%. The lack of employment opportunities in Indian country has exacerbated an already-poor health situation, and has lead to grinding social problems such as crime, domestic abuse, and alcohol and drug abuse. While gaming has aided a few tribal economies over the past decade, the great majority of tribes continue to struggle with joblessness and poverty. Gaming is not the long term solution to the goal of tribal self-determination and economic self-sufficiency. Diverse job creation is.

The Indian Employment, Training, and Related Services Demonstration Act provides tribes with a valuable tool in combating reservation unemployment. Indian tribes, like many American communities, are struggling to comply with the work requirements of the new welfare reform law. By focusing on job creation as a necessary component to any employment training program, tribes can add a new weapon in their battle against joblessness and poverty.

One of the more consistent obstacles to greater success with the Act is the Bureau of Indian Affairs management of the program. To remedy this problem, the bill transfers lead agency responsibilities from the Bureau of Indian Affairs (BIA) to the Office of Self-Governance (OSG), both agencies contained within the Department of the Interior. On May 13, 1997, the Committee on Indian Affairs conducted an oversight hearing to discuss the progress made by tribes under the Act. Tribe after tribe testified and revealed that this program is working, and working well. Tribes participating in the program testified that the program has reduced the federal paperwork burden associated with applying for related programs by as much as 96%, reduced administration time and costs of delivering job training services to tribal customers while enhancing the quality of services rendered.

Most importantly, witnesses indicated great increases in job placements for tribal members. One of the reasons for the success of this program is that it is voluntary. It is not another imposition, by the federal government, of what we think will work for them. I would like to highlight the fact that this Demonstration Act has cost the federal government nothing—- the attraction of the program is in streamlining paperwork and other administrative burdens and operating primarily at the local level. The philosophy of the program is similar to that of the Self-Governance model under which tribes, under contract with the United States, manage services and programs formerly provided by the federal government.

The witnesses at the May hearing discussed problems that they have had with the lead agency, the BIA. Of the four tribal participants testifying, all expressed dissatisfaction with the BIA. One testified that ''the Bureau of Indian Affairs has been the biggest obstacle to the implementation of P.L. 102–477.'' 20 tribal applicants representing more than 175 tribes currently participate in this demonstration, yet the BIA states that it has only two full-time employees committed to working on this program, and that number is in dispute. Additionally, all tribal witnesses reported significant delays in receiving programs funds consolidated under their approved plans.

Reasons for the delays ranged from deliberate withholding to poor accounting procedures on the part of the BIA. The May hearing, as well as subsequent meetings held with the Tribal Working Group for the Demonstration Act, have made clear that there is a consensus among participating tribes that the OSG should undertake this program. The bill proposes to transfer authority to the OSG because that office has a proven track record in working with tribes to consolidate programs and services and to achieve more effective delivery to tribal members.

If this Congress is serious about encouraging self-determination and self-sufficiency, we must provide tribes with the tools they need to further these goals. Reservation economic development and job creation go hand-in-hand and we cannot ignore this basic fact.

The current Act has gone far in permitting tribes to do more with less, as the quality of training and education services has risen with increased job placements. These amendments take the next logical step, which is to encourage job creation and make the promise of the program a reality for those that want to work and want to be productive and want to improve their lives and the lives of their families.

With that, Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 1279

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 ''Indian Employment, Training and Related Services Demonstration Act Amendments of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of services provided by those tribes and organizations;

(B) enabled more Indian people to secure employment;

(C) assisted welfare recipients; and

(D) otherwise demonstrated the value of integrating education, employment, and training services.

(2) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all programs that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization.

(3) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) The programs referred to in paragraph (2) should be implemented by the unit within the Department of the Interior responsible for carrying out the Indian Employment, Training and Related Services Demonstration Act of 1992.

(5) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—

(A) the Department of the Interior; and

(B) other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) DEFINITIONS.—Section 3 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

''(1) FEDERAL AGENCY.—The term 'Federal agency' has the same meaning given the term 'agency' in section 551(1) of title 5, United States Code.''.

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404) is amended by striking ''employment opportunities, or skill development'' and all that follows through the end of the section, and inserting ''securing employment, retaining employment, or creating employment opportunities. The programs referred to in the preceding sentence may include the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13) and the program known as the Johnson-O'Malley Program established under the Johnson-O'Malley Act (25 U.S.C. 452 through 457).''.

(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3406) is amended—

(1) by striking ''Federal department'' both places it appears and inserting ''Federal agency'';

(2) by striking ''Federal departmental'' and inserting ''Federal agency'';

(3) by striking ''department'' each place it appears and inserting ''agency''; and

(4) in the third sentence, by inserting ''statutory requirement,'' after ''to waive any''.

(d) PLAN APPROVAL.—The second sentence of section 8 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3407) is amended by inserting before the period at the end the following: '', including reconsidering the disapproval of any waiver requested by the Indian tribe''.

(e) JOB CREATION ACTIVITIES.—Section 9 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3408) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The plan submitted'';

(2) by striking ''if such expenditures'' and all that follows through the end of subsection (a) (as redesignated by paragraph (1) of this subsection); and

(3) by adding at the end the following:

''(b) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.''.

(f) PRIVATE SECTOR TRAINING PLACEMENTS.—Section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''Bureau of Indian Affairs'' and inserting ''Office of Self-Governance of the Department of the Interior'';

(2) in paragraph (4)—

(A) by inserting ''delivered under an arrangement subject to the approval of the Indian tribe participating in the project,'' after ''appropriate to the project,''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).''.

(g) PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

By Mr. CAMPBELL:

S. 1280. A bill to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT AMENDMENTS OF 1997

Mr. CAMPBELL. Mr. President, in 1996 the Congress enacted historic legislation involving the financing, construction, and maintenance of housing for Indian people. With the enactment of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), Indian housing is no longer solely in the province of the Department of Housing and Urban Development (HUD).

With NAHASDA tribes have the opportunity to develop and implement housing plans that meet their needs and values, and can do so in a way that is more efficient. I am hopeful that the success achieved by tribes participating in the Indian Self-Determination and Education Act and the Self-Governance Act programs can be duplicated in the housing arena with the implementation of NAHASDA.

The Act requires that funds for Indian housing be provided to Indian tribes in block grants with monitoring and oversight appropriately provided by HUD. By empowering the tribes themselves and decreasing tribal reliance on the federal bureaucracy, this Act is consistent with principles of tribal self-determination and self-sufficiency that have been the hallmark of federal Indian policy for nearly thirty years.

By the terms of the Act, NAHASDA becomes effective October 1, 1997. This will mean sweeping changes in the way housing is built and financed in Indian country. It is my hope that we can build on the NAHASDA model and encourage related initiatives such as banking, business development, and infrastructure construction.

Even though NAHASDA has yet to be implemented, both HUD and the tribes agree that there are sections in the Act that need clarification. The bill I am introducing, the ''Native American Housing Assistance and Self-Determination Act Amendments of 1997'', provides the required clarification and changes that will help tribes and HUD in achieving a smoother transition from the old housing regime to the new framework of NAHASDA.

The proposed amendments contained in this bill are partly the result of a hearing held by the Committee on Indian Affairs in March, 1997, which focused on the management of Indian housing under the old HUD-dominated regime.

Tribal leaders, Indian housing experts, and federal officials testified about funding problems and other matters, including the proper level of oversight and monitoring. The focus of the hearing was constructive and with an eye toward encouraging a better managed and more efficient Indian housing system.

After auditing Indian housing programs from around the nation, and after reviewing HUD's monitoring and enforcement provisions, HUD's Inspector General testified as to perceived problems in the old housing regime and the NAHASDA framework. The IG's testimony included her opinion that clarifications were needed in the

NAHASDA including minor changes to the Act's enforcement provisions.

My goal as Chairman of the Committee on Indian Affairs is to ensure that housing funds are used properly and within the bounds permitted by law. I also want to ensure that, consistent with federal obligations to Indian tribes, tribal members are properly housed and living in decent conditions.

I am confident that with the implementation of NAHASDA, tribes will be able to better design and implement their own housing plans and in the process will be able to provide better housing to their members. In making the transition from dominating the housing realm to monitoring the activities of the tribes, HUD needs guidance from the Committee as to its proper role and responsibilities under the Act.

The Act, and the amendments I am proposing today, will go a long way in making sure that the management problems that were associated with the old, HUD-dominated housing system will not be part of NAHASDA.

I ask unanimous consent that a copy of the bill be printed in the RECORD, and urge my colleagues to join me in enacting these reasonable amendments.

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

S. 1280

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Housing Assistance and Self-Determination Act Amendments of 1997''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Restriction on waiver authority.
Sec. 3. Organizational capacity; assistance to families that are not low-income.
Sec. 4. Elimination of waiver authority for small tribes.
Sec. 5. Expanded authority to review Indian housing plans.
Sec. 6. Oversight.
Sec. 7. Allocation formula.
Sec. 8. Hearing requirement.
Sec. 9. Performance agreement time limit.
Sec. 10. Block grants and guarantees not Federal subsidies for low-income housing credit.
Sec. 11. Technical and conforming amendments.

SEC 2. RESTRICTION ON WAIVER AUTHORITY.

Section 101(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(b)(2)) is amended by striking ''if the Secretary'' and all that follows before the period at the end and inserting the following: ''for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to extreme circumstances beyond the control of the Indian tribe''.

SEC. 3. ORGANIZATIONAL CAPACITY; ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.

(a) ORGANIZATIONAL CAPACITY.—Section 102(c)(4) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4112(c)(4)) is amended—

(1) by redesignating subparagraphs (A) through (K) as subparagraphs (B) through (L), respectively; and

(2) by inserting before subparagraph (B), as redesignated by paragraph (1) of this subsection, the following:

''(A) a description of the entity that is responsible for carrying out the activities under the plan, including a description of—

''(i) the relevant personnel of the entity; and

''(ii) the organizational capacity of the entity, including—

''(I) the management structure of the entity; and

''(II) the financial control mechanisms of the entity;''.

(b) ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.—Section 102(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended by adding at the end the following:

''(6) CERTAIN FAMILIES.—With respect to assistance provided by a recipient to Indian families that are not low-income families under section 201(b)(2), evidence that there is a need for housing for each such family during that period that cannot reasonably be met without such assistance.''.

SEC. 4. ELIMINATION OF WAIVER AUTHORITY FOR SMALL TRIBES.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 5. EXPANDED AUTHORITY TO REVIEW INDIAN HOUSING PLANS.

Section 103(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(a)(1)) is amended—

(1) in the first sentence, by striking ''limited''; and

(2) by striking the second sentence.

SEC. 6. OVERSIGHT.

(a) REPAYMENT.—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended to read as follows:

''SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.

''If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a).''.

(b) AUDITS AND REVIEWS.—Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 1465) is amended to read as follows:

''SEC. 405. REVIEW AND AUDIT BY SECRETARY.

''(a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.—

''(1) IN GENERAL.—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

''(2) PAYMENT OF COSTS.—

''(A) IN GENERAL.—The Secretary may arrange for, and pay the cost of, any audit required under paragraph (1).

''(B) WITHHOLDING OF AMOUNTS.—If the Secretary pays for the cost of an audit under subparagraph (A), the Secretary may withhold, from the assistance otherwise payable under this Act, an amount sufficient to pay for the reasonable costs of conducting an audit that meets the applicable requirements of chapter 75 of title 31, United States Code, including, if appropriate, the reasonable costs of accounting services necessary to ensure that the books and records of the entity referred to in paragraph (1) are in such condition as is necessary to carry out the audit.

''(b) ADDITIONAL REVIEWS AND AUDITS.—

''(1) IN GENERAL.—In addition to any audit under subsection (a)(1), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit of a recipient in order to—

''(A) determine whether the recipient—

''(i) has carried out—

''(I) eligible activities in a timely manner; and

''(II) eligible activities and certification in accordance with this Act and other applicable law;

''(ii) has a continuing capacity to carry out eligible activities in a timely manner; and

''(iii) is in compliance with the Indian housing plan of the recipient; and

''(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

''(2) ONSITE VISITS.—To the extent practicable, the reviews and audits conducted under this subsection shall include onsite visits by the appropriate official of the Department of Housing and Human Development.

''(c) REVIEW OF REPORTS.—

''(1) IN GENERAL.—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

''(2) PUBLIC AVAILABILITY.—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

''(A) may revise the report; and

''(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

''(d) EFFECT OF REVIEWS.—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits.''.

SEC. 7. ALLOCATION FORMULA.

Section 302(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152(d)(1)) is amended—

(1) by striking ''The formula,'' and inserting the following:

''(A) IN GENERAL.—Except with respect to an Indian tribe described in subparagraph (B), the formula''; and

(2) by adding at the end the following:

''(B) CERTAIN INDIAN TRIBES.—With respect to fiscal year 1998 and each fiscal year thereafter, with respect to any Indian tribe having an Indian housing authority that owns or operates fewer than 250 public housing units, the formula under subparagraph (A) shall provide that the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the

United States Housing Act of 1937 (42 U.S.C. 1437*l*) for the period beginning with fiscal year 1992 and ending with fiscal year 1997.''.

SEC. 8. HEARING REQUIREMENT.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting each such subparagraph 2 ems to the right;

(2) by striking ''Except as provided'' and inserting the following:

''(1) IN GENERAL.—Except as provided'';

(3) by striking ''If the Secretary takes an action under paragraph (1), (2), or (3)'' and inserting the following:

''(2) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)''; and

(4) by adding at the end the following:

''(3) EXCEPTION FOR CERTAIN ACTIONS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

''(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

''(i) provide notice to the recipient at the time that the Secretary takes that action; and

''(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

''(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection.''.

SEC. 9. PERFORMANCE AGREEMENT TIME LIMIT.

Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking ''If the Secretary'' and inserting the following:

''(1) IN GENERAL.—If the Secretary'';

(2) by striking ''(1) is not'' and inserting the following:

''(A) is not'';

(3) by striking ''(2) is a result'' and inserting the following:

''(B) is a result:

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this section—

(A) by adjusting the margin 2 ems to the right; and

(B) by inserting before the period at the end the following: '', if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement''; and

(5) by adding at the end the following:

''(2) PERFORMANCE AGREEMENT.—The period of a performance agreement described in paragraph (1) shall be for 1 year.

''(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

''(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

''(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

''(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a).''.

SEC. 10. BLOCK GRANTS AND GUARANTEES NOT FEDERAL SUBSIDIES FOR LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended to read as follows:

''(E) BUILDINGS RECEIVING HOME ASSISTANCE OR NATIVE AMERICAN HOUSING ASSISTANCE.—

''(i) IN GENERAL.—

''(I) INAPPLICABILITY.—Assistance provided under the HOME Investment Partnerships Act or the Native American Housing Assistance and Self-Determination Act of 1996 as in effect on the day before the date of enactment of the Native American Housing Assistance and Self-Determination Act Amendments of 1997 with respect to any building shall not be taken into account under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of the area median gross income.

''(II) APPLICABILITY OF OTHER LAW.—Subsection (d)(5)(C) does not apply to any building to which subclause (I) applies.

''(ii) SPECIAL RULE FOR CERTAIN HIGH-COST HOUSING AREAS.—In the case of a building located in a city described in section 142(d)(6), clause (i) shall be applied by substituting '25 percent' for '40 percent'.''.

(b) APPLICABILITY.—The amendment made by this section shall apply to determinations made under section 42(i)(2) of the Internal Revenue Code after the date of enactment of this Act.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(1) by striking the item relating to section 206; and

(2) by striking the item relating to section 209 and inserting the following:

''209. Noncompliance with affordable housing requirement.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended to read as follows:

''SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for each of fiscal years 1998 through 2001—

''(1) to provide assistance under this title for emergencies and disasters, as determined by the Secretary, $10,000,000; and

''(2) such sums as may be necessary to otherwise provide grants under this title.''.

(c) CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(d) TERMINATIONS.—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following: ''Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter be considered to be a dwelling unit under section 302(b)(1).''.

By Mr. MURKOWSKI (for himself and Mr. CAMPBELL):

S. 1281. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to facilitate the creation of employment opportunities for American Indians and Alaska Natives, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EMPLOYMENT AND TRAINING IMPROVEMENTS ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise to introduce the Indian Employment and Training Improvements Act of 1997, making technical amendments to the Indian Job Training and Consolidation Act of 1992. I was an original cosponsor of this law because I saw a need to reduce unnecessary, repetitive administrative costs in job development programs geared toward American Indians and Alaska Natives.

I am glad to say that after only a few years, it is clear that this program is working. Alaska tribal groups tell me that they have reported great savings in administering employment and training programs through consolidation of application and reporting requirements. The Cook inlet Tribal Corporation in Alaska alone reports a near tripling of jobs in the Anchorage area since the passage of this act, from 500 to nearly 1,500 jobs. The Aleutian Pribiloffs Island Association, the Bristol Bay Native Association, Tlingit-Haida Indian Tibes in southeast Alaska, and Kawerak corporation in Norton Sound all report satisfaction with this program. I thank these Alaska Native groups for working with my staff to complete these amendments.

I would also like to thank Senator CAMPBELL for his work on this issue and for introducing his fine bill. I look forward to combining the best aspects of our bills at a mark-up to be held later this year. I appreciate his sensitivity to Alaska-specific concerns on this and other Indian Affairs issues.

Mr. President, my bill would make several technical corrections that would encourage more tribes to take advantage of this demonstration. Let me highlight a few of these changes. First, it would establish the Office of Self Governance as the lead agency, replacing the Bureau of Indian Affairs. This change is needed because the BIA has shown resistance to allowing two of its programs to be included in the program: the Johnson O'Malley education program and general assistance dollars. The Office of Self governance, in contrast, has shown itself to be an effective administration in working with tribes to meet their needs.

Second, it would allow the regional non-profit corporations in Alaska to act on behalf of the tribes, without having specific authorizing resolutions on the exact subject at hand, though the tribes could always object and opt out of the regional's actions. Third, it

would enable tribes to establish one consolidated advisory committee to encompass all the advisory councils currently required by the programs that are included in the demonstration.

All these changes will allow the participating tribes to get more out of the Indian Job Training and consolidation Act by enabling them to better tailor their programs for their individual needs and by reducing regulatory barriers to efficient consolidation of Indian job training programs.

Mr. President, the drop-out rate from college of Alaska Native kids in the Anchorage area is usually between 80–90 percent. We need to provide these young Alaskans with both educational and job skills so they can fully participate in Alaska's economy. The technical amendments I am introducing today will lead to further economic growth and more efficient use of Indian job training dollars. I urge my colleagues to support these amendments.

By Mr. AKAKA (for himself, Ms. MOSELEY-BRAUN, and Mrs. MURRAY):

S. 1282. A bill to provide for the establishment of the National Museum for the Peopling of America within the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

THE PEOPLING OF AMERICA MUSEUM ACT

Mr. AKAKA. Mr. President, last year marked the 150th anniversary of the Smithsonian Institution, an establishment dedicated to the ''increase and diffusion of knowledge among men.'' Since its founding, the Smithsonian has promoted excellence in research and public education in all fields of human and scientific interest. To continue this great tradition of excellence, and to ensure its relevance to its patrons and beneficiaries, the American people, today I am introducing legislation, cosponsored by Senator CAROL MOSELEY-BRAUN and Senator PATTY MURRAY, to establish a new Smithsonian entity, the National Museum for the Peopling of America.

The Peopling of America Museum would be dedicated to presenting one of the most significant experiences in American history, the complex movement of people, ideas, and cultures across boundaries—both internal or external—that resulted in the peopling of the Nation and the development of our unique, pluralist society. This movement transformed us from strangers from different shores into neighbors unified in our inimitable diversity—Americans all.

Under our bill, the Museum would have a number of different functions. These include serving as: A location for exhibits and programs depicting the history of America's diverse peoples and their interactions with each other. The exhibits would collectively form a unified narrative of the historical processes by which the United States was developed; A center for research and scholarship to ensure that future generations of scholars will have access to resources necessary for telling the story of American pluralism; A repository for the collection of relevant artifacts, artworks, and documents to be preserved, studied, and interpreted; A venue for integrated public education programs, including lectures, films, and seminars, based on the Center's collections and research; and A location for a standardized index of resources within the Smithsonian dealing with the heritages of all Americans. The Smithsonian's holdings contain millions of artifacts which have not been identified or classified for this purpose.

A clearinghouse for information on ethnic documents, artifacts, and artworks that may be available through non-Smithsonian sources, such as other federal agencies, museums, academic institutions, individuals, or foreign entities.

A folklife center highlighting the cultural expressions of the peoples of the United States. The existing Smithsonian Center for Folklife Programs and Cultural Studies, which already performs this function, could be integrated with the museum.

A center to promote mutual understanding and tolerance. The Museum would facilitate programs designed to encourage greater understanding of, and respect for, each of America's diverse ethnic and cultural heritages. The Museum would also disseminate techniques of conflict resolution currently being developed by social scientists.

An oral history center developed through interviews with volunteers and visitors. The museum would also serve as an oral history repository and a clearinghouse for oral histories held by other institutions.

A visitor center providing individually tailored orientation guides to Smithsonian visitors. Visitors could use the museum as an initial orientation phase for ethnically or culturally related artifacts, artworks, or information that can be found in each of the Smithsonian's many facilities.

A location for training museum professionals in museum practices relating to the life, history, art, and culture of the peoples of the United States. The museum would sponsor training programs for professionals or students involved in teaching, researching, and interpreting the heritage of America's peoples.

A location for testing and evaluating new museum-related technologies that could facilitate the operation of the museum. The facility could serve as a test bed for cutting-edge technologies that could later be used by other private or public museums.

Our legislation also stipulates that the museum would be located in new or existing Smithsonian facilities on or near the National Mall. Additionally, the measure establishes an Advisory Committee on American Cultural Heritage to provide guidance on the operation and direction of the proposed museum.

Mr. President, aside from the first Americans, whose precedence must be acknowledged, we Americans were travelers from other lands. From the first Europeans who came as explorers and conquerors to the African slaves who endured the middle passage and labored in the fields of our early plantations, from the people of Nuevo Mexico to the French of the Louisiana Territory who became Americans through annexation, from the Irish who fled poverty and famine at home to the Chinese who came in search of Gold Mountain—all were once visitors to this great country.

America is defined by the grand, entangled progress of its individual peoples to and across the American landscape—through exploration, the slave trade, immigration, or internal migration—that gave rise to the rich interactions that make the American experience unique. We embody the cultures and traditions that our forebears brought from other shores, as well as the new traditions and cultures that we adopted on arrival.

Whether we settled in the agrarian West, the industrialized North, the small towns of the Midwest, or the genteel cities of the South, our forebears inevitably formed relationships with peoples of other backgrounds and cultures. Our rich heritage as Americans is comprehensible only through the histories of our various constituent cultures, carried with us from other lands and transformed by encounters with other cultures. As one eminent cultural scholar has noted:

> How can one learn about slavery, holocausts, immigration, ecological adaptation or ways of seeing the world without some type of comparative perspective, without some type of relationship between cultures and peoples. How can we understand the history of any one cultural group—for example, the Irish—without reference to other groups—for example, the British. How can we understand African American culture without placing it in some relationship to its diverse African cultural roots, the creolized cultures of the Caribbean, the Native American bases of Maroon and Black Seminole cultures, the religious, economic and linguistic cultures of the colonial Spanish in Columbia, the French in Haiti, the Dutch in Suriname, and the English in the United States?

Unfortunately, Mr. President, the Smithsonian, perhaps our most prestigious educational institution, has never attempted to explore this comparative perspective of how our Nation came to be peopled. For whatever reason, the institution has failed to examine the college of relationships that shaped the values, attitudes, and behaviors of our various constituencies. Aside from occasional, temporary exhibits on a specific immigration or migration topic, such as the Museum of American History's recent exhibit on the northern migration of African-Americans, none of the Smithsonian's many museums and facilities has tasked itself to examine any aspect of

this phenomenon, the peopling of America experience, much less offered a global review of the subject.

This shortcoming derives, in part, from the fact that the Smithsonian, for all its reputation as a world-class research and educational organization, remains an institution rooted in 19th century intellectual taxonomy. For example, during the early years of the Smithsonian, the cultures of Northern and Western European Americans were originally represented at the Museum of Science and Industry, which eventually became the Museum of American History. However, African Americans, Asian Americans, Native Americans, and others were treated ethnographically as part of the Museum of Natural History. This artificial bifurcation of our cultural patrimonies is still in place today. Consequently, the collections of various ethnic and cultural groups have been fragmented among various Smithsonian entities, making it difficult to view these groups in relation to each other or as part of a larger whole.

The establishment of the Peopling of America Museum would address this glaring deficiency. The museum would instantly create a national venue where all Americans, regardless of ethnic origin, could visit in order to discover and celebrate their diverse historical roots. More important, the museum would facilitate an exploration of our commonalities, the historical and cultural experiences that created the unique American identity and sensibility.

Mr. President, in May 1995, the Commission on the Future of the Smithsonian Institution, a blue ribbon panel charged with pondering the future of the 150-year-old institution, issued its final report. In its preface, the Commission noted:

The Smithsonian Institution is the principal repository of the nation's collective memory and the nation's largest public cultural space. It is dedicated to preserving, understanding, and displaying the land we inhabit and the diversity and depth of American civilization in all its timbres and color. It holds in common for all Americans that set of beliefs—in the form of artifacts—about our past that, taken together, comprise our collective history and symbolize the ideals to which we aspire as a polity. The Smithsonian—with its 140 million objects, 16 museums and galleries, the national Zoo, and 29 million annual visits—has been, for a century and a half, a place of wonder, a magical place where Americans are reminded of how much we have in common.

The story of America is the story of a plural nation. As epitomized by our nation's motto, America is a composite of peoples. Our vast country was inhabited by various cultures long before the Pilgrims arrived. Slaves and immigrants built a new nation from ''sea to shining sea,'' across mountains, plains, deserts and great rivers, all rich in diverse climates, animals, and plants. One of the Smithsonian's essential tasks is to make the history of our country come alive for each new generation of American children.

We cannot even imagine an ''American'' culture that is not multiple in its roots and in its branches. In a world fissured by differences of ethnicity and religion, we must all learn to live without the age-old dream of purity—whether of bloodlines or cultural inheritance—and learn to find comfort, solace, and even fulfillment in the rough magic of the cultural mix. And it is the challenge to preserve and embody that marvelous mix—the multi-various mosaic that is our history, culture, land, and the people who have made it—that the Smithsonian Institution, on the eve of the twenty-first century, must rededicate itself.

Mr. President, what more compelling argument in favor of the Peopling of America Museum can be found than in these words? What initiative other than the Peopling of America Museum would more directly address the Smithsonian's role in presenting the diversity and depth of American civilization in all its timbres and color, or making the history of our country come alive for each new generation of American children, or preserving the multivarious mosaic that is our history, culture, land, and the people who have made it?

In conclusion, Mr. President, I believe that this initiative will foster a much-needed understanding of our diversity, of the rich cultural and historical differences that constitute our uniqueness as individuals. Conversely, and more important, I believe that the Peopling of America Museum will promote an appreciation of the common values, relationships, and experiences that bind our citizens together. A museum dedicated to the celebration of our unity in diversity will sustain and invigorate our sense of national purpose; surely this is a mission worthy of the Smithsonian to undertake.

Thank you, Mr. President. I hope that this legislation will initiate a national dialog about the central role that the Smithsonian should play in preserving, researching, and exhibiting America's cultural and historical patrimony. I look forward to beginning this conversation with my colleagues, the academic community, and the interested public.

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. 1282

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 ''Peopling of America Museum Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The history of the United States is in large measure the history of how the United States was populated.

(2) The evolution of the American population is broadly termed the ''peopling of America'' and is characterized by the movement of groups of people across external and internal boundaries of the United States as well as by the interactions of the groups with each other.

(3) Each of the groups has made unique, important contributions to American history, culture, art, and life.

(4) The spiritual, intellectual, cultural, political, and economic vitality of the United States is a result of the pluralism and diversity of the population.

(5) The Smithsonian Institution operates 16 museums and galleries, a zoological park, and 5 major research facilities. None of these public entities is a national institution dedicated to presenting the history of the peopling of the United States, as described in paragraph (2).

(6) The respective missions of the National Museum of American History of the Smithsonian Institution and the Ellis Island Immigration Museum of the National Park Service limit the ability of those museums to present fully and adequately the history of the diverse population and rich cultures of the United States.

(7) The absence of a national facility dedicated solely to presenting the history of the peopling of the United States restricts the ability of the citizens of the United States to fully understand the rich and varied heritage of the United States derived from the unique histories of many peoples from many lands.

(8) The establishment of a Peopling of America Museum to conduct educational and interpretive programs on the multiethnic and multiracial character of the history of the United States will assist in inspiring and better informing the citizens of the United States concerning the rich and diverse cultural heritage of the citizens.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Committee.

(2) COMMITTEE.—The term ''Committee'' means the Advisory Committee on American Cultural Heritage established under section 7(a).

(3) DIRECTOR.—The term ''Director'' means the Director of the Museum.

(4) MUSEUM.—The term ''Museum'' means the National Museum for the Peopling of America established under section 4(a).

SEC. 4. ESTABLISHMENT OF THE NATIONAL MUSEUM FOR THE PEOPLING OF AMERICA.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a facility that shall be known as the ''National Museum for the Peopling of America''.

(b) PURPOSES OF THE MUSEUM.—The purposes of the Museum are—

(1) to promote knowledge of the life, art, culture, and history of the many groups of people who comprise the citizens of the United States;

(2) to illustrate how such groups cooperated, competed, or otherwise interacted with each other; and

(3) to explain how the diverse, individual experiences of each group collectively helped forge a unified national experience.

(c) COMPONENTS OF THE MUSEUM.—The Museum shall include—

(1) a location for permanent and temporary exhibits depicting the historical process by which the United States was populated;

(2) a center for research and scholarship relating to the life, art, culture, and history of the groups of people of the United States;

(3) a repository for the collection, study, and preservation of artifacts, artworks, and documents relating to the diverse population of the United States;

(4) a venue for public education programs designed to explicate the multicultural past and present of the United States;

(5) a location for the development of a standardized index of documents, artifacts, and artworks in collections that are held by the Smithsonian Institution, classified in a manner consistent with the purposes of the Museum;

(6) a clearinghouse for information on documents, artifacts, and artworks relating to the groups of people of the United States that may be available to researchers, scholars, or the general public through non-Smithsonian collections, such as documents, artifacts, and artworks relating to the groups that are held by—

(A) other Federal agencies;

(B) other museums;

(C) universities;

(D) individuals; and

(E) foreign institutions;

(7) a folklife center committed to highlighting the cultural expressions of various groups of people within the United States;

(8) a center to promote mutual understanding and tolerance among the groups of people of the United States through exhibits, films, brochures, and other appropriate means;

(9) an oral history library developed through interviews with volunteers, including visitors;

(10) a location for a visitor center that shall provide individually tailored orientation guides for visitors to all Smithsonian Institution facilities;

(11) a location for the training of museum professionals and others in the arts, humanities, and sciences with respect to museum practices relating to the life, art, history, and culture of the various groups of people of the United States; and

(12) a location for developing, testing, demonstrating, evaluating, and implementing new museum-related technologies that assist in fulfilling the purposes of the Museum, enhance the operation of the Museum, and improve the accessibility of the Museum.

SEC. 5. LOCATION AND CONSTRUCTION.

(a) LOCATION.—The Museum shall be located—

(1) in a facility of the Smithsonian Institution that is, or is not, in existence on the date of enactment of this Act; and

(2) on or near the National Mall located in the District of Columbia.

(b) CONSTRUCTION.—The Board of Regents of the Smithsonian Institution may plan, design, reconstruct, or construct appropriate facilities to house the Museum.

SEC. 6. DIRECTOR AND STAFF.

(a) IN GENERAL.—

(1) APPOINTMENTS.—The Secretary of the Smithsonian Institution shall appoint and fix the compensation and duties of—

(A) a Director, Assistant Director, Secretary, and Chief Curator of the Museum; and

(B) any other officers and employees that are necessary for the operation of the Museum.

(2) QUALIFICATIONS.—Each individual appointed under paragraph (1) shall be an individual who is qualified through experience and training to perform the duties of the office to which that individual is appointed.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and the 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of positions and General Schedule pay rates.

SEC. 7. ADVISORY COMMITTEE ON AMERICAN CULTURAL HERITAGE.

(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an advisory committee to be known as the ''Advisory Committee on American Cultural Heritage''.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 15 members, who shall—

(i) be appointed by the Secretary of the Smithsonian Institution;

(ii) have expertise in immigration history, ethnic studies, museum science, or any other academic or professional field that involves matters relating to the cultural heritage of the citizens of the United States; and

(iii) reflect the diversity of the citizens of the United States.

(B) INITIAL APPOINTMENTS.—The initial appointments of the members of the Committee shall be made not later than 6 months after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet at the call of the Chairperson, but shall meet not less frequently than 2 times each fiscal year.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—The Committee shall select a Chairperson and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMITTEE.—The Committee shall advise the Secretary of the Smithsonian Institution and the Director concerning policies and programs affecting the Museum.

(c) COMMITTEE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

By Mr. BUMPERS (for himself, Ms. MOSELEY-BRAUN, and Mr. HUTCHINSON):

S. 1283. A bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDALS LEGISLATION

Mr. BUMPERS. Mr. President, I rise today to introduce a bill on behalf of Senator CAROL MOSELEY-BRAUN and myself authorizing the award of the Congressional Gold Medal to the extraordinary group of Americans known as the Little Rock Nine. We speak often of heroes in this body. Sometimes we worry that there are no heroes in our country today, no one for our children to look up to, no one to inspire us to be our best selves. But a couple of weeks ago, we had a vivid reminder that there are still heroes among us. The Little Rock Nine returned to Little Rock Central High School to stride through the doors again. This time those doors were held open by the Governor of Arkansas and the President of the United States.

Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas. Their names are not so familiar to the American public, but they ought to be.

On a fall day in 1957, these nine Americans were teenagers, children really, and they marched up the steps of Little Rock Central High School, young black teenagers through a huge crowd—actually a mob—of angry white people who despised them just for being there and presuming to attend a public school in their own home town. They marched up the steps with a cool courage that remains awesome today, no matter how many times we see the grainy newsreels.

In 1957, Little Rock was not a very big city, but for a few days, it became the center of the world. Arkansas was not the most staunchly segregationist State in the South, but politics, history and fear conspired to make it the

crucible for the authority of *Brown* v. *Board of Education*. And through that storm of controversy marched these nine young people, frightened but dignified, barely comprehending what was happening but sensing that they were helping to move aside a profound obstacle.

Now, even the people who jeered at them will admit that they were impressed and moved by the courage of those nine kids. The images of those days in Little Rock, and the extraordinary lives these nine sons and daughters of Arkansas have led are proud symbols of the progress we have made in America and a solemn reminder of the progress we have yet to make.

Any ordinary teenager is sensitive to the tiniest insult, the most innocent slight. It is hard to imagine what these nine felt as they were cursed and spat upon, peppered with every slur and threat the crowd could muster. They were opposed by the Governor, by most every local leader, by their peers and by a fully armed unit of the National Guard. They were able to enter the school when President Eisenhower ordered in units of the airborne division to escort them and enforce the order of the Supreme Court. But it was not the power of the soldiers or the authority of the law that won the day. It was the grace and courage of those nine young people.

Their grace and courage prevailed that day and has inspired us for 40 years. They deserve our thanks and admiration. They deserve a medal. We should present those nine heroes of Little Rock with the Congressional Gold Medal as a permanent remembrance of their unforgettable moment of courage. I hope all of my colleagues will cosponsor this bill and see that it quickly becomes law.

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:

S. 1283

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress hereby finds the following:

(1) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the ''Little Rock Nine'', voluntarily subjected themselves to the bitter stinging pains of racial bigotry.

(2) The Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country.

(3) The Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation.

(4) The Little Rock Nine sacrificed their innocence to protect the American principle that we are all ''one nation, under God, indivisible''.

(5) The Little Rock Nine have indelibly left their mark on the history of this Nation.

(6) the Little Rock Nine have continued to work towards equality for all Americans.

SEC. 2. CONGRESSIONAL GOLD MEDALS.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Malba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to the ''Little Rock Nine'', gold medals of appropriate design, in recognition of the selfless heroism such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(b) DESIGN AND STRIKING.—For purposed of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient.

(c) AUTHORIZATION OF APPROPRIATION.—Effective October 1, 1997, there are authorized to be appropriated such sums as may be necessary, to carry out this section.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

By Mr. ROBERTS:

S. 1284. A bill to prohibit construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, VA, and for other purposes; to the Committee on Energy and Natural Resources.

CONSTRUCTION PROHIBITION LEGISLATION

Mr. ROBERTS. Mr. President, today I am introducing legislation that really should not have to be introduced to address a controversy that should not be taking place. The legislation is intended to prevent further construction of any memorial on the parcel of Federal land surrounding the U.S. Marine Corps memorial commonly known as the Iwo Jima memorial located in Arlington, VA.

Mr. President, the reason I am introducing this legislation is that, unfortunately, this site has been selected for a 50-foot high Air Force memorial approximately 500 feet from the Iwo Jima statue.

Mr. President, I realize full well that this legislation and this issue will and has caused considerable emotional debate and difference of opinion within our Marine and Air Force communities. I stress that in my opinion it does not have to be that way.

First, the points that I will raise should not be construed as any denigration or challenge to the worthiness of a memorial to the proud men and women of the U.S. Air Force who have served our Nation so very well. In fact, one of my points is that our U.S. Air Force deserves its own special place that will not compete with any other memorial.

In discussing this legislation, I am going to leave the legal issues to those with better expertise in the nuance of law. The point I would like to stress is very basic. It supersedes reports and hearings and commission recommendations and whether or not the proponents of construction of another memorial have successfully—and apparently they have—traversed the procedural obstacle course and the tripwires necessary to gain approval for construction.

Simply put, the Iwo Jima memorial represents and memorializes an absolutely unique and special time in our Nation's history. Just as Bunker Hill and Saratoga and Yorktown and Gettysburg, Belleau Wood and Bataan, Normandy, Chosin Reservoir, and other battles have been etched in our national psyche as touchstones and reminders of courage, valor and bravery in defense of freedom, and have special meaning for this Nation and the valiant members of our Armed Forces that fought bravely in each of those campaigns, Iwo Jima became a rallying point for this country and the U.S. Marine Corps during the dark days of the war in the Pacific.

Mr. President, on a personal note, for me, the Iwo Jima memorial has special meaning. My dad, then a Marine major, Wes Roberts, took part in the battle of Iwo Jima. His accounts of the bravery and sacrifice are part of our family's history and inspiration. Fifteen years later, then Marine Lt. Pat ROBERTS, stationed in Okinawa with the 3d Marine Division, revisited Iwo Jima, along with the first official Marine party to pay a personal tribute and visit to that island. My assignment was to cover the visit and dedication for the Stars and Stripes newspaper.

I shall never forget the experience. Iwo Jima veterans, enlisted and officers, stood on Mt. Suribachi in the quiet of the gentle wind overlooking a now lush green island in the blue of the Pacific, and there was not a sound. Then, in hushed tones, mixed with emotion and tears, the Iwo Jima veterans relived, recounted that battle and said many a prayer for their fallen comrades.

Lt. General Thomas A. Wornham placed a 5th Marine Division insignia on the flagpole atop famous Suribachi. Former members of his old unit, the 27th Marines, stood with visiting dignitaries. They listened quietly. The general said, ''We landed over there by those two rocks. The terraces were much higher then. I crawled on my hands and knees right by that small hill.''

In a low whisper, Col. John W. Antonelli, former 2d battalion Commander in the 27th, said, ''I cannot look at this scene, this island, without thinking of my Marines who died in

order to capture it. From the top of Suribachi, I can see where they fell. One of my best friends was killed in that ravine. Every time the Marines would take cover there, they invited the incoming artillery.''

Then Col. Donn J. Robertson, former 3d battalion commander in the famous regiment, told listeners how the island had changed. ''This new lush vegetation would have given our boys much needed cover then. As I stand here looking down from Suribachi, I realize how the enemy had us covered in interlocking fire. We landed on a beautiful day just like this, sun shining, blue sky, blue ocean. I am thankful to be alive.''

Standing on Suribachi, it was difficult for any of us to imagine how anyone could have survived the landing and day-after-day assault. The day after the island was declared secure more marines suffered casualties than they had in the last 10.

But survive they did, and Old Glory was raised over Iwo Jima on the 23d of February, 1945, and captured on film to become a pictorial moment in history unequaled in portraying uncommon valor. Almost 10 years later, that special event in our Nation's history was recreated and consecrated forever in the dedication of the Iwo Jima memorial here in our Nation's Capital and now attracts over 1 million visitors every year.

Let me stress, Mr. President, that Iwo Jima is not purely a Marine Corps memorial. It does, of course, represent an extremely important event in the proud history of our corps, but it is, in a larger sense, a memorial for the American people. Many consider the Iwo Jima site as hallowed ground and certainly not a site where there should be a competing memorial.

I also wish to acknowledge that the Air Force Association has been forthright and aboveboard in the process to find a suitable site for their proposed memorial. I applaud and support their efforts to properly recognize the superb contribution the men and women of the U.S. Air Force have made to this country. The point is that I do not believe it serves any purpose for either memorial to compete with or stand in the shadow of the other.

I also realize the proponents of the Air Force memorial will say it will not interfere with Iwo Jima, and it will be located behind a line of trees so that it cannot be seen from the Iwo site.

Now, the sense I get from those statements is that the Air Force memorial will figuratively be in the shadow of Iwo Jima. If so, that, quite frankly, is not fair to the Air Force and to those the memorial is intended to honor. A location should be found where the memorial can stand clearly, proudly, and in its own place without competition from any other structure.

In addition, the National Planning Commission report recognizes that the site for the proposed Air Force memorial is, ''fragile and delicate.'' The report further recognizes that the area encompassing the Iwo Jima memorial and the Netherlands Carillon and the Arlington National Cemetery is ''reverent space whose beautiful nature is already heavily disrupted by heavy automobile and bus traffic on the periphery and by tour bus traffic within the area itself. The planned construction of 40 additional parking spaces adjacent to the memorial, which is currently a wooded area, would further diminish the natural beauty of the memorial and the park surroundings.''

I realize in the passage of time, even the most memorable acts of courage and valor and bravery tend to fade into yesterday's history books. Succeeding generations tend to forget the lessons of the past, and the world, indeed, is a different place. Today, great historical events, and even the lives and lessons of our Founding Fathers are many times mere footnotes in a fast-paced society, or worse, subject to revision depending on what is politically correct at the moment.

But, let us not add to or hasten this erosion by unnecessarily competing or infringing upon what has been accurately called ''sacred and reverent space.''

This so-called controversy about the location of the proposed Air Force memorial in conjunction with the Iwo Jima memorial is, in fact, a paradox of enormous irony. The battle of Iwo Jima was fought to secure a safe haven and staging area for bomber aircraft flown by the forerunners of the U.S. Air Force. Marines fought and died to help save the lives of the fliers of the Army Air Corps. For 43 years, ever since the memorial was dedicated on the Marine Corps birthday in 1954, the Iwo Jima memorial has been in fact a memorial to both brave marines and fliers of World War II.

Why, why then, why indeed, should any memorial so inspired, so true to the memory and sacrifice of both marines and Army Air Corps fliers, why should such hallowed ground be subject to encroachment and duplication of yet another memorial for the same purpose, a memorial that should stand in its own right and on its own site?

We should preserve the sanctity of a memorial that has come to be viewed by all Americans as a de facto memorial to World War II. Nothing should detract from the serene and hallowed setting of the Iwo Jima memorial.

In a letter I have received from the Commandant of the U.S. Marine Corps, Gen. C.C. Krulak, the Commandant eloquently sums up what all marines feel in their hearts and what I have tried to explain in my remarks. I quote from his letter:

> Although I was just a young boy, I remember watching as the Iwo Jima memorial was erected on the edge of Arlington Cemetery. I remember that November day in 1954 when my godfather, Gen. Holland ''Howlin Mad'' Smith, stood before that magnificent statue and, with tears slowly streaming down his cheeks, softly said, ''My marines, my marines. . . .'' Truly, this is a sacred place.

Mr. President, the commandant went on to say that, as the last marine on active duty to have witnessed the Iwo dedication, he truly believes that this Nation must preserve its sanctity. For, as General Krulak said, the Iwo Jima memorial is more than a monument; it is a place for reflection, a place to pay respect, and a place to gain inner strength. Over 23,000 marines were killed or injured on Iwo Jima, and each year, over 1 million Americans pay tribute to those marines.

General Krulak closed his letter by saying:

> In speaking for them, for their survivors, and for all marines past, present and future, the sanctity of the Iwo Jima memorial must be preserved.

Semper fidelis, general, semper fidelis.

I ask my colleagues to join me in this effort.

By Mr. FAIRCLOTH (for himself, Mrs. HUTCHISON, Mr. MACK, Mr. LOTT, Mr. ABRAHAM, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. KYL, Mr. BENNETT, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. WARNER and Ms. SNOWE):

S. 1285. A bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals; to the Committee on Finance.

THE MARRIAGE TAX PENALTY ELIMINATION ACT OF 1997

Mr. FAIRCLOTH. Mr. President, today I am pleased to introduce legislation that will eliminate the marriage penalty tax. This is similar to legislation in the House, H.R. 2456, which has 218 cosponsors, including the Speaker of the House.

According to the Joint Economic Committee, in 1996, more than 23 million married couples paid a marriage penalty, totaling an extra $28 billion in taxes. This would mean the average couple is paying $1,200 more in income taxes simply because they are married. I think it is time to change the tax code so that we do not punish people simply for being married.

From 1913 to 1969, the federal income tax treated married couples either just as well as or better than if they were single. Since then, married couples have had to pay a marriage penalty. This is even more ironic if you consider that the number of married couples where both work has increased dramatically. Finally, the tax increase in 1993 made the problem worse by raising the tax rates.

This legislation is supported by Americans for Tax Reform and the National Taxpayers Unions. I am pleased to be joined by Senators HUTCHINSON and MACK, making a total of 35 Senators that are original cosponsors.

I would hope that we could end this penalty against marriage. Marriage should be cherished, not punished by the Federal Government. I would urge other Senators to cosponsor this bill, and I would hope that we could take up this legislation as soon as possible.

By Mr. JEFFORDS:

S. 1287. A bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

THE ASIAN ELEPHANT CONSERVATION ACT OF 1997

Mr. JEFFORDS. Mr. President, today I rise today to introduce a bill to assist in the preservation of Asian elephants. The bill, the ''Asian Elephant Conservation Act of 1997'', is modeled after the highly successful African Elephant Conservation Act of 1988 and the Rhinoceros and Tiger Conservation Act of 1994. It will authorize up to $5 million per year to be appropriated to the Department of the Interior to fund various projects to aid in the preservation of the Asian elephant.

Since the challenges of the Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations

Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication. To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

On April 22, 1997, I introduced the African Elephant Conservation Reauthorization Act of 1997 (S. 627). By the late 1980's, the population of African elephants had dramatically declined from approximately 1.3 million animals in 1979 to less than 700,000 in 1987. The primary reason for this decline was the poaching and illegal slaughter of elephants for their tusks, which fueled the international trade policy. Today, as a result of the bill, the African elephant population has stabilized, international ivory prices remain low, and wildlife rangers are better equipped to stop illegal poaching activities.

I am a strong proponent of the protection and conservation of endangered species. If we do not act now, the world's future generations may not be able to enjoy many of the species of wildlife now in existence. This small, but critical investment of U.S. taxpayer money will be matched by private funds and will significantly improve the likelihood that wild Asian elephants will exist in the 21st Century. It is my hope that the Asian Elephant Conservation Act of 1997 will hopefully see the same successes that the African elephant bill has seen.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 1289. A bill to temporarily decrease the duty on certain industrial nylon fabrics; to the Committee on Finance.

TARIFF REDUCTION LEGISLATION

Mr. ALLARD. Mr. President, today I am introducing this legislation to lessen a financial burden on American companies. I am pleased that my colleague from Colorado, Senator CAMPBELL is joining me as an original cosponsor. For approximately 20 years, various U.S. manufacturers have been paying substantial tariffs on a product that is not produced in this country.

Mr. President, my legislation would significantly reduce the tariff on this particular product from 16 to 6.7 percent. This product is an industrial nylon fabric used in the manufacture of automotive timing belts. United States companies that use this product in their manufacturing processes have no choice but to import it since it has not been produced domestically since the mid-1970's.

There is no domestic industry to harm by lowering this tariff, consumers will clearly benefit, and many domestic industries will benefit by becoming more competitive.

My bill would temporarily reduce the tariff on the nylon fabric product for 3 years. After that period, if there are still no U.S. producers, further action would then be in order. Mr. President, reducing American competitiveness to protect non-existent domestic industries simply does not make sense. It is my hope that this situation will be rectified.

By Mr. HATCH:

S. 1290. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce private relief legislation on behalf of my constituents, Mr. Saeed Rezai, and his wife, Mrs. Julie Rezai.

As my colleagues are aware, those immigration cases that warrant private legislation are extremely rare. In fact, in nearly 8 years, I have introduced just one bill to grant such relief—a bill for the relief of Saeed Rezai in the last Congress. As I said before the Senate when I introduced that bill in 1995, I had hoped that this case would not require congressional intervention. Unfortunately, it is clear that private legislation is the only means remaining to ensure that the equities of Mr. and Mrs. Rezai's case are heard and that a number of unresolved questions are answered without imposing a terrible hardship on Mr. and Mrs. Rezai and on their marriage.

I wish to take a moment, Mr. President, to provide something by way of background to this somewhat complicated case and to explain the urgency of this legislation. Mr. Rezai first came to the United States in 1986. On June 15, 1991, he married his current wife, Julie, who is a U.S. citizen. Shortly thereafter, she filed an immigrant visa petition on his behalf. Approval of this petition has been blocked, however, by the application of §204(c) of the Immigration and Nationality Act. Section 204(c) precludes the approval of a visa petition for anyone who entered, or conspired to enter, into a fraudulent marriage. The Immigration and Naturalization Service [INS] applied this provision in Mr. Rezai's case because his previous marriage ended in divorce before his 2-year period of conditional residence had expired. In immigration proceedings following the divorce, the judge heard testimony from witnesses on behalf of Mr. Rezai and his former wife. After considering that testimony, he found there was insufficient evidence to warrant lifting the conditions on Mr. Rezai's permanent residency and, in the absence of a qualifying marriage, granted Mr. Rezai voluntary departure from the United States. The judge was very careful to mention, however, that there was no proof of false testimony by Mr. Rezai, and he granted voluntary departure rather than ordering deportation because, in his words, Mr. Rezai ''may be eligible for a visa in the future.''

Despite these comments by the immigration judge, who clearly did not anticipate the future application of the §204(c) exclusion to Mr. Rezai's case, the INS has refused to approve Mrs. Rezai's petition for permanent residence on behalf of her husband based on that very exclusion. An appeal of this decision has been pending before the Board of Immigration Appeals [BIA] for 3 years. In the meantime, Mr. Rezai appealed the initial termination of his lawful permanent resident status in 1990. In August 1995, the 10th Circuit Court of Appeals denied this appeal and reinstated the voluntary departure order. Under current law, there is no provision to stay Mr. Rezai's deportation pending the BIA's consideration of Mrs. Rezai's current immigrant visa petition.

Mr. President, there is no question that Mr. Rezai deportation will create extraordinary hardship for both Mr. and Mrs. Rezai. Throughout all the proceedings of the past 6 years, not a single person that I know of—including the INS—has questioned the validity of Mr. and Mrs. Rezai's marriage. In fact, many that I have heard from have emphatically told me that Mr. and Mrs.

Rezai's marriage is as strong as any they have seen. Given the prevailing political and cultural climate in Iran, I would not expect that Mrs. Rezai will choose to make her home there. Thus, Mrs. Rezai's deportation will result in either the breakup of a legitimate family or the forced removal of a U.S. citizen and her husband to a third country foreign to both of them.

It should also be noted that Mr. Rezai has been present in the United States for more than a decade. During this time he has assimilated to American culture and has become a contributing member of his community. He has been placed in a responsible position of employment as the security field supervisor at Westminster College where he has gained the respect and admiration of both his peers and his supervisors. In fact, I received a letter from the interim president of Westminster College, signed by close to 150 of Mr. Rezai's associates, attesting to his many contributions to the college and the community. This is just one of the many, many letters and phone calls I have received from members of our community. Mr. Rezai's forced departure in light of these considerations would both unduly limit his own opportunities and deprive the community of his continued contributions.

Finally, Mr. Rezai's deportation would create a particular hardship for his wife, who was diagnosed just a few years ago with Multiple Sclerosis [MS]. Mrs. Rezai's doctor has recommended that her husband be designated as her primary caregiver for what is expected to be a lifelong debilitating illness. It is doubtful that adequate medical care would be available should she be forced to return with her husband to Iran or to some other country willing to accept them as immigrants. Finally, her doctor has suggested that severe symptoms and rapid deterioration of Mrs. Rezai's condition are possible as a result of the stress being placed upon her by her husband's protracted immigration proceedings and the uncertainty of their future.

Mr. President, I firmly believe that we must think before enforcing an action that will result in such severe consequences as the destruction of Mr. and Mrs. Rezai's marriage and the endangering of Mrs. Rezai's already fragile health. The legislation I am introducing today, if enacted, will put an end to what has been a long and drawn-out ordeal for the Rezais by granting Mr. Rezai full permanent resident status. At a minimum, the outstanding questions regarding the propriety of the denial of Mr. Rezai's current immigrant visa petition need to be addressed. With the introduction of this legislation today and its consideration by the Judiciary Committee's Subcommittee on Immigration, we can ensure that Mr. Rezai's deportation will be stayed pending the thorough review of these questions by the Board of Immigration Appeals. I urge each of my colleagues to support this immigration bill.

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. THOMAS, Mr. BROWNBACK, Mr. ROBERTS and Mr. BURNS):

S. 1291. A bill to permit the interstate distribution of State-inspected meat under certain circumstances; to the Committee on Agriculture, Nutrition, and Forestry.

THE INTERSTATE DISTRIBUTION OF STATE-INSPECTED MEAT ACT OF 1997

Mr. HATCH. Mr. President, I rise to introduce the Interstate Distribution of State-inspected Meat Act of 1997. This legislation will lift the ban on interstate distribution of State-inspected meat and poultry, providing some long-term relief to our livestock producers and finally ending a long-standing inequity in meat inspection laws that affects about 3,000 meat processors in 26 States.

In the 1960's, the Federal Meat Inspection Act and the Poultry Products Inspection Act allowed States to implement their own inspection programs. At the time, there remained some uncertainty as to how well the State inspection programs would function, so a provision was included banning meat inspected by States from interstate distribution. There was also a provision included requiring the U.S. Department of Agriculture to periodically recertify that the State programs are ''at least equal to'' the Federal standards. In the 30 years since this program was instituted, a State program has never failed to achieve recertification.

Mr. President, today the ban on interstate distribution has clearly outlived its purpose. Instead of protecting the health of our citizens, it only stifles competition in the meat packing industry and impounds the available market to State-inspected plants. Right now, State-inspected ostrich, venison, buffalo, and pheasant are freely distributed across State lines; yet, a perfectly good steak is banned.

Furthermore, foreign competitors are allowed to send their meat products throughout the United States without regard for State boundaries. These foreign companies do not face a higher standard than our State-inspected processing plants. The only difference is that the State-inspected plants have much tighter oversight by the USDA. There is no reason that U.S. plants should be restricted from competing with foreign countries.

Monte Lucherini runs a State-inspected plant in Logan, UT. He runs a good business and makes an excellent product, but is still not allowed to do business outside of Utah. He writes:

> I believe that my gross sales would increase 30 to 40 percent. . . . Employment would be increased also. I would need two to three more butchers, and probably five to six more part-time workers. . . . It has always been a thorn in our side that we couldn't service the customers that want our products.

David H. Yadron runs a state-inspected plant in Orem, Utah. He says:

> By scrimping and saving, this ''mom and pop'' operation was built to federal standards two years ago. Nevertheless, large companies and foreign competitors enjoy the privilege of shipping their meat products interstate even though our facility and products are equal or superior to theirs. This injustice limits our profitability while providing an unfair marketing advantage to foreign companies and large domestic operations. Unless Congress repeals the unfair prohibition, we could be forced out of business. Conversely, if Wind River grows, then our suppliers, including the local, federal meat inspected packers, would also grow.

Mr. President, there are restaurants and food retailers in many States that would love to purchase meat products from Utah's State-inspected plants. Utah's State inspection program receives the highest marks possible by the USDA, and many of our plants produce unique and hard-to-find products. Instead of purchasing from Utah, these restaurants and retailers are forced to purchase from foreign competitors, even though the quality of the foreign product is often inferior.

There is no sense to this, Mr. President; it cuts into the profits of our retailers, raises the prices for our consumers, stifles business for our processors, and limits the market for our livestock and poultry producers.

Mr. President, the time has come to lift the ban in State-inspected meat and poultry. There is no reason whatever to believe that permitting interstate distribution for State-inspected meat would compromise safety in any way. In fact, I believe we would have even greater assurances about the safety of meat than we do now. The USDA would continue to set and ensure inspection standards.

I am aware that the USDA has recently begun looking into the merits of lifting the prohibition on interstate distribution, and I am eager to work with the USDA on a workable plan for bringing this law up-to-date. I call on my colleagues to support this effort to introduce equity into the meat packing industry.

Mr. FEINGOLD. Mr. President, I am pleased to be an original cosponsor of the Interstate Distribution of State-inspected Meat Act of 1997 introduced today by my colleague from Utah [Mr. HATCH] and I thank him for his leadership on this issue.

This is a very important bill for my State of Wisconsin which has nearly 300 State-inspected meat plants which provide jobs and income for rural communities. The quality meat products processed by these plants such as the Lodi Sausage Co. in Lodi, WI, Gunderson Food Service in Mondovi, WI, Goodfella's Pizza Corp. in Medford, WI, The Ham Store in Brookfield, WI, Country Fresh Meats in Hatley, WI, and Louie's Finer Meats, Inc. in Cumberland, WI are prohibited from being sold across State lines. These small businesses face the interstate marketing prohibition not because their products haven't been inspected—in fact all these businesses are inspected by the

State of Wisconsin—but because of an archaic provision of Federal law which prohibits interstate shipment of State-inspected meats even though the State inspection program is certified as equal to Federal meat inspection programs.

These plants, and hundreds like them in Wisconsin, produce quality specialty meat products which are demanded by consumers in other States. But the owners of these facilities are unable to capitalize on their specialties and meet that market demand. By limiting these plants to markets within their home-State borders, Federal law effectively prevents them from expanding their markets, increasing the number of people they employ, and generating additional economic activity in rural areas.

These small plants pose no competitive threat to larger processors who are federally inspected. In most cases, State-inspected plants are small family owned businesses, employing between 1 and 20 people, producing specialty products to fill a small market niche. These plant owners and operators pay special attention to the quality of their products and because of this they cannot grow very large. Wisconsin's small-scale meat processors take great pride in their products which reflect the ethnic diversity in my State. In fact, it is my understanding that Wisconsin specialty meat products win nearly 25 percent of the awards at the American Association of Meat Processors' nationwide product show.

Furthermore, these small State-inspected plants play a critical role in sustaining rural communities and helping to ensure diversity of size in the livestock industry. Most of these plants buy livestock locally which helps maintain the viability of nearby small family livestock operations. By buying locally they know exactly where their inputs bar coming from and how they are produced, which allows them to control the quality of their products. These local buying practices help counteract trends toward concentration in the livestock and poultry production and processing industries providing small livestock and dairy producers with marketing alternatives in any industry dominated by a few large meat packers.

The owners of these small businesses in Wisconsin correctly point out that they face even more meat shipment restrictions than their competitors from foreign countries. Under our trade agreements, meat products from foreign countries are allowed into the United States and across State borders as long as the country has an inspection program that is ''equivalent'' to U.S. programs. Meanwhile, even if State inspection programs are ''equal to'' Federal inspection programs, meats inspected under State programs are still precluded from interstate shipment Mr. President, it simply isn't fair and it is time to eliminate this inequity.

The bill we are introducing today makes a simple but important change to Federal law to allow State-inspected meats to be sold across State lines after the State inspection program is favorably reviewed and certified by the Secretary of Agriculture as at least ''equal to'' Federal meat inspection programs. If State programs are not equal to the Federal inspection program, they will not be certified by USDA and State-inspected meats will not cross State lines. The Secretary is also required by this bill to certify that the State inspection program is on schedule in implementing USDA's new Hazard Analysis and Critical Control Points [HAACP] regulations. The bill also requires the Secretary to annually recertify the State program. To provide further safeguards, Federal meat inspectors may also randomly inspect State plants to ensure that they continue to meet Federal standards. The Secretary will have the authority to reinstate the interstate shipment ban on plants that fail to meet Federal standards. This bill is responsible to consumers while providing equity to small State-inspected plants.

Mr. President, I think the best arguments in favor of this legislation are made by those small business owners who are directly affected by the interstate shipment prohibition imposed on their meat products. I want to share with my colleagues some comments made by owners of some State-inspected processing businesses in Wisconsin.:

Louis Muench, owner of Louie's Finer Meats, Inc. In Cumberland, WI writes:

> We are the operators of a small meat processing and sausage making operation in a small town in northern Wisconsin . . . Our plant is 30 miles from the Minnesota border and we cannot even provide sausage for a pancake supper in Minnesota, let alone any wholesaling to supermarkets and convenience stores. We have received over 100 State and National awards for our sausage products. We cannot even market these products on a regional basis, let alone a national basis. This past May [1996], we were honored to receive two international gold medals for our sausage in Frankfurt, Germany. We are not allowed to market these products anywhere but Wisconsin. These kinds of restrictions make it difficult to maintain a profitable business.

Dan Kubly, one of the owners of LazyBones Ham Store, in Brookfield, WI writes:

> We work very closely with our state inspectors and consider them an ally in our overall business. We constantly consult with them on equipment conditions, labeling and handling procedures in our plant. It makes no sense that we are permitted to ship our products anywhere as long as the retail customer buys the product at our stores, but are not allowed to ship the same product across state lines through a distributor . . . Our volume is increasing rapidly and we are interested in contracting with a multi-state distributor, however we are unable to do this because we do not have USDA inspection. We feel our business will suffer significantly and job creation will end if we are not permitted to expand due to this unnecessary prohibition.

James Weber, owner of Gunderson Food Service, in Modovi, WI writes:

> We are operating a small meat plant in northwest Wisconsin and employ 9 people. We slaughter and and custom process for the local farm community, smoke ham and bacon, manufacture sausage and sell retail and wholesale. We are under Wisconsin meat inspection and are required to be equal to or better than Federal inspection. In the last 4 years we have taken 18 Wisconsin, national and international awards for our ham, jerky, beef sticks and sausage; but because I am in Wisconsin I am discriminated against by the Federal government. We are 30 miles from the Minnesota border but cannot sell our product there. If my products are of high enough quality to be sent 250 miles to Milwaukee, Wisconsin, then why is there a problem with me selling it 25 miles away in Waubaska, Minnesota?

Bill Ruef, owner of Ruef's Meat Market in New Glarus, WI who processes a Swiss ready-to-eat snack called ''Landjaeger'' writes:

> This [Landjaeger] is our most popular item, and I get asked on a regular basis by business owners from other states—we are about 25 miles from the Illinois border—if we can ship our Landjaegers to them for resale in their establishments. It really hurts me and my business when I have to tell them ''no'' because we aren't federally inspected. This kind of unfair prohibition will only continue to drive small businesses to fold and allow large conglomerates to monopolize the industry.

Mr. President, these business owners say it best. The current prohibition on interstate shipment of State-inspected meats is obsolete and patently unfair to small meat processors. It is time to correct this inequity and I urge my colleagues to support this important legislation.

Mr. BROWNBACK. Mr. President, today I join with the distinguished Senators from Utah, Wisconsin, and Wyoming in introducing a bill which addresses an injustice that has developed out of current law.

Under current law, meat and poultry products that are processed in plants which are inspected by State departments of agriculture are not allowed to be shipped over State lines. This restriction is an unfair restraint on competition which is especially discriminatory toward small processing facilities.

State inspection programs are required to maintain standards are ''at least equal to'' federal inspection standards. The U.S. Department of Agriculture periodically recertifies that State programs continue to meet that standard. meeting an ''equal to'' standard is the same requirement that foreign meat processors must meet in order to sell their product within U.S. borders. Not allowing State inspected facilities the freedom to sell their product throughout the country after having met the same standard that allows their foreign competitors to market their product unimpeded is, quite simply, unfair.

This arbitrary restriction has been troublesome to me ever since I was Secretary of Agriculture for Kansas. I've seen firsthand that this restriction impedes competition. In fact, I would like to insert in the RECORD a letter that I received from a professional in

the State of Kansas who operates a State inspected plant. My constituent presents a credible case for why her business is limited because of the restriction on interstate shipment.

Proprietors of State-inspected plants are not the only advocates of changing the law. USDA's packer concentration panel recommended an immediate repeal of this prohibition as a way to slow packer concentration. The National Association of State Department of Agriculture, which represents the Secretaries and Commissioners of Agriculture which have responsibility for overseeing State programs, strongly endorses the repeal of interstate shipment restrictions. Based on public comment solicited in the Federal Register and public hearings that were held throughout the country, the U.S. Department of Agriculture recently announced its support of lifting the ban on interstate shipment.

Mr. President, I would like to address the issue of food safety in relation to my proposal. Food safety is paramount. This measure would not in any way undermine the consumer's access to a reliable and safe product. However, this bill is not about food safety. Rather, this bill addresses an issue of commerce and trade.

In other words, food safety is an issue of enforcing the inspection standards that are in place, whether under State or Federal oversight. If State-inspected meat is safe to be distributed in Kansas, it is safe to be shipped to Missouri, or Oklahoma, or wherever else an entrepreneur finds a customer. Conversely, if the food is not safe to be shipped over State lines, it shouldn't be distributed with the State either.

And, as both State and federally inspected plants implement the Hazard Analysis and Critical Control Point system, we can be even more assured that plants throughout the country are conforming to a uniformly high set of standards. Now, more than ever, a focus on who does the inspecting has no relevance in determining where the product can be consumed safely.

I would like to highlight the paper that the U.S. Department of Agriculture recently released in support of allowing the interstate shipment of State-inspected meat and poultry products. In this paper, the administration states its concept for legislative action and establishes certain recommendations for what that legislation should include. I believe that there is much common ground between the Secretary's guidelines and the bill that my colleagues and I are introducing today.

I look forward to working with the USDA, as well as my colleagues here in the Senate, in order to pass and implement this legislation.

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

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

HOME ON THE RANGE & CO.,
Scott City, KS, September 11, 1997.

Congressman SAM BROWNBACK,
Washington, DC.

DEAR CONGRESSMAN BROWNBACK: On September 6 of last week I was asked to attend a meeting called by Secretary of Agriculture Dan Glickman concerning the interstate shipment of State inspected meat and poultry products. I was a Kansas representative of small processors that are affected by this issue.

This is not a food safety issue. Our plants meet or exceed the provisions provided by the USDA. In many cases we are even more careful of our products standards because we live in the communities where we work. If our customers do not like the quality of products we produce they tell their friends and so on. We want to produce the safest and highest quality of products.

It is an unfair competition issue. With the passage of the NAFTA and other trade agreements, foreign meat and poultry products have free access to United States interstate commerce. These foreign inspection systems must meet requirements similar to those that the states must meet in assuring that their systems meet the requirements found in the federal acts. Why should beef inspected in Mexico have free access to interstate commerce when beef I process can not be sold in Colorado?

Expanding the market for state inspected plants will create jobs and the economy in all our communities. These plants provide ''value added'' and specialty products to the market that the larger plants do not want to produce.

Another issue that does not make sense is the fact that the Buffalo Jerky I produce by the exact process as the Beef Jerky I produce is able to be sold across the United States because the USDA does not regulate them as species which require mandatory federal inspection.

Please give your support to Bill number S. 1862 that is being introduced concerning this matter. It is very important this be passed now. Time is running out for the small processors. In Kansas alone, 6–7 plants are closing a year because we are not able to access the trade we need to stay in business.

Kansas Secretary of Agriculture, Allie Devine is in favor of this bill. She would be happy to answer any questions you may have on this issue.

Thank you very much for your time.

Sincerely,

LORI ROBBINS, *Owner*.

By Mr. STEVENS (for himself, Mr. BYRD, Mr. BURNS, Mrs. MURRAY, Mr. AKAKA, Mr. ALLARD, Mr. BOND, Mr. BAUCUS, Mr. BENNETT, Mr. BINGAMAN, Mrs. BOXER, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FORD, Mr. FRIST, Mr. GRAHAM, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INOUYE, Mr. KEMPTHORNE, Mr. LEAHY, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SARBANES, Mr. SPECTER, Mr. THOMPSON, and Mr. WARNER):

S. 1292. A resolution disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45; to the Committee on Appropriations, pursuant to the order of section 1025 of Public Law 93–344 for seven days of session.

DISAPPROVAL LEGISLATION

Mr. STEVENS. Mr. President, I have sought the floor now to introduce a disapproval bill to reverse the President's use of the line-item veto in the fiscal year 1998 military construction appropriations bill. I believe at least 37 of my colleagues will join as cosponsors of this bill.

The Line-Item Veto Act, public law 104–130, provides very specific fast-track procedures for consideration of a disapproval bill. I want to discuss those in detail later in these comments.

Congress received the President's special message listing the 38 cancellations in the military construction bill on Monday, October 6. The bill we introduce today is within the 5 calendar days of session timeframe provided for fast-track process.

Let me take a minute on the merits of this bill, Mr. President. In June, the President reached a budget agreement with the bipartisan leadership of the Congress. That agreement provided an increase of $2.6 billion for national defense over the amount that the President had requested in the budget for fiscal year 1998. The President's action on the military construction bill, in my judgment, reneges on the budget agreement he reached with the Congress. We were given our spending caps under the agreement and the Appropriations Committee presented the Senate with 13 appropriations bills consistent with the spirit, terms and limits of the revised budget.

We upheld our end of the agreement with the President. The President has not. This afternoon the Appropriations Committee met to evaluate the President's use of the line-item veto authority.

I called this hearing after consultation with Senator BYRD because of the manner in which the President had used this new prerogative on this military construction bill. I asked the committee to consider whether that tool was used as intended by Congress, and that intention was that the line-item veto would be used to eliminate wasteful or unnecessary spending. The committee heard testimony from the Air Force, Navy and Army regarding the merits of the 38 military construction projects. Today's hearings afforded our committee the chance to review the status of these projects in the military's future budget plans and whether or not they could be executed in 1998. Our military witnesses testified that in fact these projects were mission-essential and that they could be commenced in 1998. These military witnesses stated that the military services were not consulted in deciding which projects should be vetoed on this bill. These witnesses also informed us that 33 of the 38 projects in the President's message on the line-item veto are in the Department's future year defense plan. Let me repeat that. Thirty-three of the 38 projects the President indicated he

wished to line-item veto were in a plan he had approved himself.

They told us that the President's January budget constraints had prohibited them from including many of these projects in this year's budget. If the military services at the beginning of the year had had the extra $2.6 billion that the President agreed to in July, it is my judgment that all of the projects listed in the disapproval bill could and probably would have been included in the President's fiscal year 1998 budget request, if he listened to the military departments.

It's my belief that we will be successful in what we are starting today, which is an effort to overturn these line-item vetoes because the projects that the President has attempted to eliminate are meritorious, are sought by the Department, are within the budget agreement, and they are not wasteful or excessive spending.

These projects reflect a combination of quality of life, safety, readiness and infrastructure enhancement initiatives, Mr. President. A substantial number of them would significantly improve the day-to-day working conditions for men and women in uniform. Our soldiers, sailors, airmen and marines are the ones that are being shortchanged by the President's veto, not officials in the Pentagon or in the White House.

I will urge my colleagues to support us in this important endeavor. We must stand together to require that the President live up to the bargain he made with the Congress this summer. The Line-Item Veto Act provides a process to resolve the issue quickly, so I want to take the time of the Senate to outline that process so that we all know this is a new process for all of us.

Under this act, the President sent to Congress one special message for each law in which the President exercises his cancellation authority under the Line-Item Veto Act. That special message must contain a numbered list of each item the President seeks to cancel. The Line-Item Veto Act includes a fast track—a process for the speedy consideration of one disapproval bill for each message. Our action today only pertains to the military construction bill.

In order to overturn one or more of the cancellations in a special message, the Congress must send a bill to the President disapproving the cancellations. That bill may be vetoed by the President using his constitutional veto authority. As with any other bill, the President's veto then may be overturned only by an affirmative vote of two-thirds of the Members of each House. In order to qualify for this expedited process, the provisions of the Line-Item Veto Act require that a disapproval bill must be introduced within five calendar days of session after the Congress receives a special message from the President. With respect to the Senate, a calendar day of session is a day in which both Houses of Congress are in session. This fast-track procedure applies only in the House for 30 calendar days of session. There is no time limit on the Senate's consideration of the bill, other than the time for introduction of the bill and the discharge from the committee.

A disapproval bill in the House must contain a list of all the items canceled in the special message. A disapproval bill in the Senate may contain any or all of the items canceled. I might say, Mr. President, that the bill I will introduce with my cosponsors will not include all of the measures, because some Senators have indicated they do not want to move forward with their items. The format for the disapproval bill is spelled out in the Line-Item Veto Act, and the fast track process is available only if that exact format is followed.

The addition of anything other than the numbers from the list of the items canceled in the special message, whether on the floor or in conference, results in the loss of the fast track process in both the House and the Senate. In other words, no amendments to this bill, other than dealing with the specific items by number as listed in the President's message, are in order. Once introduced, the disapproval bill is referred to the committees with jurisdiction over the items that have been canceled, and it must be reported within 7 calendar days of session. After 7 calendar days of session, it is in order in either the House or the Senate to have the committees discharged. Special rules then apply in the House and the Senate with respect to debate and amendments on a disapproval bill.

In the Senate, there are no more than 10 hours of debate with one extension of time for up to 5 additional hours. That is possible at the request of the leadership. Debate on any amendment is limited to one hour with up to a limit of 10 hours, at which time all amendments then pending are voted on.

Special rules are also provided in the act for the conference committee. The conferees are directed to accept any item in a disapproval bill that was included in both the House and the Senate and are limited to accepting or rejecting any item in disagreement. In other words, there can be nothing added in conference that is not in one bill or the other.

Debate in the Senate on a conference report is limited to four hours. This will be an expedited process, Mr. President. We intend to start it as soon as we return. Let me say again that there is a learning curve for us on the line-item veto process, and I am also constrained to say to the Senate what I just said at the conclusion of the hearing on the subject of the President's special message before the Appropriations Committee.

It is obvious to me that the use of the line-item veto by the White House in this instance was very excessive. It is also obvious to me that the information process in getting the details to the President concerning the items in the bill that he used the line-item veto on were very, very badly handled. We are now awaiting the President's action on the Defense Appropriations bill. As chairman, I have been notified that the Department of Defense wishes to discuss that bill with our staff and with Members, and there was an indication that we might be asked to ''negotiate'' to see what items would be subject to a veto under the Line-Item Veto Act and what items the President would yield to that Congress desires to not have vetoed.

I have notified the Department of Defense and the White House that we are not prepared—Senator BYRD and I have agreed—to negotiate with regard to any of those items. We will—and our door is open—explain to the White House or the Department why we put in any of the items, or why we left them out, but we will not negotiate. Our constitutional duty is to pass legislation. As a matter of fact, the Congress is given the specific authority for the legislative process. The President may recommend to the Congress, but he cannot dictate to the Congress, and he is not going to dictate to the Congress during the watch of this Senator. I think I am joined in that regard by the Senator from West Virginia. We do not intend to negotiate with regard to items that have already been passed by the Congress. We do discuss it before we pass a bill with the administration and we listen to them at times about threats of vetoes. But we are not going to listen to those threats after a bill is passed.

I urge the Senate to understand this process that we are going through now because it is obvious that the process will be followed again and again. I announced at the conclusion of the hearings on this message on the Military Construction bill that if the same process is followed on the Department of Defense bill, an arrogant abuse of power, I intend to introduce a bill to repeal the Line-Item Veto Act. I was a supporter of the Line-Item Veto Act; as a matter of fact, I was chairman of the conference on the Senate side of that act. But I believed it should be used for a stated purpose, only to eliminate wasteful or unnecessary spending. We make mistakes at times and we make compromises at times, which perhaps could lead to what a President could class as being wasteful or unnecessary spending. But a wholesale condemnation of an act passed by Congress by use of the line-item veto pen, to me, is arrogance. From my point of view, I will persist in trying to repeal that statute and take it away from this administration—it will only be extended to the executive branch for a short period of time anyway—if it is abused again.

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. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97–4, 97–5, 97–6, 97–7, 98–8, 97–9, 97–10, 97–11, 97–12, 97–13, 97–14, 97–15, 97–16, 97–17, 97–18, 97–19, 97–20, 97–21, 97–22, 97–23, 97–24, 97–25, 97–26, 97–27, 97–28, 97–29, 97–30, 97–32, 97–33, 97–34, 97–35, 97–36, 97–37, 97–38, 97–39, and 97–40, as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105–45.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am pleased and I am proud to join with the distinguished chairman of the Appropriations Committee, my friend, a friend in every sense of the word, TED STEVENS, in offering legislation to put back on the President's desk those projects which were line-item vetoed, at least those projects that Senators want to put back before the President for his consideration, and if he wants to veto that bill, he can do so, and then Congress can override or sustain his veto.

Mr. President, I think that one of the most significant things that has happened in the history of this country was the passage of the Line-Item Veto Act. To me, it was one of the most shocking abdications of duty that Members of the Congress have committed. I am not here today to say ''I told you so,'' but I am here today to say that this pernicious act should be repealed.

I hope that the Supreme Court of the United States will strike it down, but there has to be a case brought. I attempted that with other colleagues in both Houses, and the Supreme Court, as everybody knows, said we didn't have standing, even though the act itself anticipated that such a case would be brought by Members of Congress.

I am not here today to argue that. But I am here today to just take a few minutes to point out for the record why the Line Item Veto Act is an unconstitutional act. No matter what the Supreme Court ultimately says, I will always think it is an unconstitutional act. The distinguished chairman has already stated the law and what the instructions were in that law as to what actions Congress may take and when, and all of that. So I will not attempt to go into that. He has already indicated what was brought out in the hearings this afternoon. One thing was that the administration's right hand doesn't know what the left hand is doing.

I was called by Mr. Raines on Monday as to the one item that I had that was line-item vetoed. I was told that certain criteria governed the actions of the President in using the line-item veto pen. I was told that the one item that is to be located in West Virginia was, in the face of the governing criteria, to be line-item vetoed. I stated to Mr. Raines, ''That is an incorrect statement of the case. This item is in the Defense Department's 5-year plan, and the design has already been started. It is under way. So your criteria don't fit this project.'' And he indicated that he would have to take another look, therefore, and asked me to send down the papers from which I was reading, which I did, and he indicated that he would get back to me, which he did not. And I don't fault him for not getting back to me. He has other things to do, I am sure.

But what I am saying is that this action on the part of the administration was an abuse even of a bad law; an abuse even of a bad law.

In the very first section of the very first article of the Constitution these words are to be found. It is one sentence. Section 1:

All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives.

That is very plain. It says that only the Congress has the constitutional authority to make laws. ''All legislative powers'' —not ''some powers''; not a ''few powers''; but ''All legislative powers herein granted shall be vested in a Congress of the United States.'' It doesn't say the President may share in that. The President doesn't have any lawmaking power. He is limited to the veto power insofar as making the laws are concerned—the veto power as set forth in the Constitution of the United States.

So he has no lawmaking power. The Constitution states the limits of his veto authority.

It states in section 7 of article I that, and I read:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it.

I will not read the rest of the language dealing with the veto.

But Congress in the passing of the Line-Item Veto Act went far afield from the Constitution of the United States. Congress in the Line Item Veto Act said, in essence, that when the President signs an appropriation bill into law, he has 5 days thereafter during which time he can cancel out certain portions of that bill which has already become law.

So that is what he did in this instance. He signed into law a bill, and then, unilaterally, he came along 5 days later and changed that law. He amended it. He struck out certain items. If that bill were before the Senate and if Senator STEVENS or Senator GRASSLEY or Senator BENNETT or any other Senator wished to move to strike an item in the bill, which, in this case, was to be at Camp Dawson in Preston County, WV—if any one of those Senators moved to strike that item, they could do it. But before they could succeed in striking that item, they would have to have a majority of the Senate to support them by a vote.

The vote could be by voice. It could be by division. It could be by rollcall. But they would have to have a majority of a quorum in the Senate in order to be successful in striking that item. They would not yet have fully accomplished their aim, however. A majority of the Members in a quorum of the other body would likewise have to support the striking of that item. If all 100 Senators were present, they would have to have 51 votes. If all 435 Members of the House were present, they would have to have at least 218 votes in order to successfully strike that item. A majority of each House would have to support the conference report. But in any event, in the first instance, a majority of each body would have to support the amendment in order to strike the item from the bill.

Striking an item from a bill is amending a bill. After the President has signed a bill into law, then under this Line-Item Veto Act, a President—Democrat or Republican, it doesn't make any difference—may after the first 10 minutes, after the first 5 minutes, after the first 2 days, 3 days, or 4 days, even on the fifth day, he may go back and singlehandedly, unilaterally cancel out an item in the law; in other words, strike it out; change the law. He could, if he wished to, line-item out 90 percent of the law, which in that form, as a bill, would probably not have passed either body. But one man, or woman, if it should be, as the President of the United States may unilaterally amend a bill. That is amending a bill.

The Senator from Iowa if he offers a motion to strike my item from the bill is moving to amend the bill. He is pursuing the legislative process. That is the lawmaking process. He is amending a bill. As I have already said, he can't do it alone. His vote only counts for 1 out of 100. He has to have a majority.

But not so with the President. The President may amend unilaterally, after he signs the bill into law. According to the Constitution, if he approve the bill, he shall sign it. Well, he must have approved it, or he wouldn't have signed the bill. He approved it. He signed the bill into law. Up to 5 days later, he may go back and change that law unilaterally. And that is what he did in this instance. He changed the law unilaterally. He struck out Camp Dawson.

Did Senators really intend to give one man in the White House that kind of power, that kind of legislative power? Can they really believe that the Framers who wrote this Constitution would have ever intended that that be done? It is mind-boggling—mind-boggling. It is mind-boggling to me to think that a majority of these two Houses would give any President—any President, Republican or Democrat—that kind of power. And with that kind of power the President, be he Republican or Democrat, holds the sword of Damocles over the head of every Senator and every House Member.

Am I going to vote against a certain treaty, or some nomination? The President may say, ''Look, you have an item in the bill. You have done a great job. You have done a great job for the State of West Virginia. I am really proud of you. The people down in your State love you. You did this, you did that. And I want you to have this item. But can we bargain a little here? Can we negotiate a little bit? Can you help me on what I want that is in the bill? Can you help me on this nomination?'' Or whatever. ''Maybe we can reach an amicable agreement here where you will get your item, and I will get mine.''

Now, I do not want to say that I am not willing to listen to the administration. We do that all the time when the subcommittees bring these bills to the floor. The subcommittees on appropriations work for weeks in hearings. They listen to witnesses. They talk with their staffs. They look over the correspondence. They study the needs of the various agencies and departments. And then they get together and they mark up the bill in the subcommittee. Then it goes to the full committee. Then it comes to the Senate. During all of this time, the administration is telling us what they want and what they don't want. We understand that. We know all about that. We know what they want and what they don't want. But it may be the collective judgment of the subcommittee to do otherwise. So the subcommittee brings this bill to the full committee, and it is then brought to the Senate. And we act on it, and it goes to conference. Then what happens?

Well, I have been treated to just a little bit of it lately. This is no surprise to me. We pass an amendment like this—a bill like this—and give it to any President. He will hold over your head a hammer. So, as we go to conference, the administration people come into the conference, or they come into our offices, or wherever they meet with the leadership, and they say, ''Look, this item the President will veto. If that item is in there, the President is going to veto it. This item we want. This item the President will veto unless you modify it.''

I knew that would be the situation in which we were going to find ourselves once this Line-Item Veto Act was passed.

So, as far as I am concerned, it impinges upon a Senator's or a House Member's freedom of speech. They have to be a little bit more careful about what they say about any administration.

It impinges on a Senator's freedom to act in accordance with the wishes of the constituents who send him here. And to that extent he is that much less a free man, less able to exercise his own independence. The distinguished Senator from Alaska has said we do not intend to negotiate. We intend to send this down to the White House if the majority of each body will vote for it.

Let me say here what I said in the committee today. If the President wants to line-item veto a West Virginia item, I am not going to negotiate with the administration.

Negotiating is over as far as I am concerned. When the subcommittee works its will, has its hearings, marks up its legislation, brings it to the full committee, the full committee acts, amends, modifies, changes, or whatever, and when the House does the same, when the collective wisdom and judgment of the subcommittee and the full committee and both Houses has been reached, if the President wants to veto it, go to it. Why should we sit down and negotiate in order to keep him from wielding his line-item veto pen? Let him use his veto pen only as instructed in the original Constitution. Let him use it. And then Congress can work its will. It can either sustain his veto or override it, but there should be no negotiating.

That is what every administration will want us to do. They want us to get in a position where we will continue to negotiate and they will continue to ratchet us down, they will continue to get what they want, but they want you to negotiate for whatever your constituents need. Whatever your constituents need, how you feel about your constituents, that is negotiable. Then they throw out that threat: ''Well, the President will veto that.'' The President will line item that out. Well, so what! ''Lay on, Macduff; And damn'd be him that first cries 'Hold, enough.' ''

We like to know what the administration is thinking. It is worthwhile to have their judgment. It helps to guide us in our deliberations. But once both bodies have acted and get into conference, then for the administration to come up here and say, ''Well, this is vetoable, if you don't change that. We don't like it,'' I am not for negotiating now. Let the President use his line-item veto pen. I hope that Senators and House Members who voted for the line-item veto will get their bellies full. I hope they get a bellyful of it and they probably will, because this is just a start. There are several other appropriations bills coming along.

Think of the time that this costs. Senator STEVENS held a hearing today, had a good attendance, a lot of Senators were there. They weren't elsewhere doing other things which were important likewise. It took a lot of their time. It took the time of the generals and admirals who were up from the Defense Department, and that is going to be repeated over and over and over again. Look at the time it is taking now. We have already taken time. The subcommittee took time. The full committee took time. And there are Members on those subcommittees and full committee who have great expertise in legislative areas under the jurisdiction of those subcommittees. And then all that goes for naught because a President, Republican or Democrat, wants this or wants that or does not want to go along with a Member whose constituents feel there are needs to be met and acts accordingly.

The administration has been given a hammer to use over the heads of Senators and could threaten anything that a Senator wants as a way to get the President's way on unrelated matters. It greatly enhances the President's bargaining position in the legislative process. Go home tonight, all Senators, and before you close your eyes in slumber, think of what we have done. We have given one man, who puts his britches on just as I put mine on—one leg at a time—we have said you may amend a bill unilaterally. You do not have to worry about a majority in the other body or a majority here. You may amend a bill all by yourself. You may strike an item out. That is amending a bill. You are the super lawmaker.

Not by this Constitution he isn't. I cannot understand how, or whatever got into the Members' minds when they voted to give any President the line-item veto. But it is done. It is done. I hope they will think now and that somebody will bring a case and the Supreme Court will strike down this infernal, pernicious, illegitimate gimmick.

But in the meantime, I will follow the Senator from Alaska. If he gets ready to introduce legislation to repeal the Line Item Veto Act, I am ready. I am ready to join him. Just go home and read once again, Senators who are listening, section 1 of article I. ''All legislative powers herein granted''—and if those legislative powers are not herein granted, they do not exist. ''All legislative powers herein granted shall be vested in a Congress of the United States . . .''

And then go over to section 7 of article I and read the language: ''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve,'' meaning the bill, the resolution, ''he shall sign it, but if not he shall return it.'' It does not say he may amend it unilaterally. ''If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it.''

Now, that is the Constitution. And we have no right as Members by legislation to give any President the right unilaterally to amend a bill. We do not have that power. I do not think Congress has the power. I do not think it can give away its constitutional power to make all laws.

There is only one other thing I would say, and then I am going to sit down. I have said already there is a strong probability that the Senate will have to consider items that it has already considered in the committee process over and over again, amounting to a tremendous waste of precious time. Senator INOUYE cited a number of vital

systems that have been added by the Congress to the defense bill over the years such as greatly increasing the purchase of stealth fighters, the Osprey helicopter, C–130 aircraft, C–17's and other systems which at the time were opposed by the administration and probably would have been subject to the line-item veto and killed. Where would we then have been during Desert Storm?

This is a strong case that the administration does not have a corner on wisdom, and that if it uses the line-item veto to simply protect its budget as delivered, we will lose the great benefit of that wisdom and shortchange the historic contributions that have been made over the years.

I thank all Senators for indulging me. I have fought this battle over and over and over again. And I am willing to fight it over and over and over again. I do not believe that I took an oath to support and defend the Constitution, then only to turn around and vote, in violation of that Constitution, to give any President the unilateral right, power or prerogative to, in essence, amend a law by striking an item.

I hope more than anything else, before God sees fit to call me home, that the line-item veto will be struck down either by the Supreme Court or by the Congress itself. That is my prayer.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1293. A bill to improve the performance outcomes of the child support enforcement program in order to increase the financial stability and well-being of children and families; to the Committee on Finance.

THE CHILD SUPPORT PERFORMANCE IMPROVEMENT ACT OF 1997

Mr. ROCKEFELLER. Mr. President, I am pleased to join my colleague and friend, Senator SNOWE, in introducing the Child Support Performance Improvement Act of 1997. I have long been impressed with Senator SNOWE's commitment to the health, safety, and well-being of children, and I believe that this legislation will go far to improve the financial security of thousands of American children.

As a country, our most fundamental measure of success is how well we treat our children. We have a responsibility as Members of Congress and as a community to do our utmost to make sure that American children live happy, healthy, and stable lives. At the same time, we must acknowledge that much of the responsibility in ensuring children's happiness and security falls squarely at the feet of their parents. Sadly, many parents neglect their emotional and financial responsibilities, maintaining that because they are no longer living in the same house as their children, they no longer have to support them.

It is estimated that each year, $15 to $25 billion in child support go uncollected. One study reported that four out of five parents have attempted to shirk their court-ordered child support responsibilities at one time or another. In many of these cases, families, already fragile from the absence of one parent, are forced to turn to welfare as the only reliable source of monetary support. In 1975, Congress created the Child Support Enforcement Program to help stop this disturbing pattern. The goal of that program was and still remains to reduce public welfare expenditures by forcing absent parents to provide child support as a regular and reliable source of income for their children. As part of this goal, the Federal Government provides incentive payments to encourage State child support agencies to enforce child support collections as efficiently and effectively as possible. Unfortunately, in the past several years, these incentives have become disincentives; handsomely rewarding even the most poorly performing States with the most dismal collection rates.

Last year, the welfare reform bill took a positive step by commissioning a task force composed of child support experts from the Department of Health and Human Services and State child support agencies to come up with a new set of incentives that would put State agencies back on the road to efficient collections. The Child Support Performance Improvement Act of 1997 incorporates the consensus findings of this working group. For the first time, the new incentive structure takes into account, not just a State's cost effectiveness in collecting child support, but that State's overall success is establishing paternity and child support orders as well as collecting current and back child support.

The bill also requires the Secretary of HHS to create and implement a sixth incentive: a medical support incentive. As we are all aware, health care is an essential part of any financial package provided for a child. For the first time, this bill requires the implementation of a medical incentive which will require States to seek medical and health coverage as part of the overall child support order. All children deserve comprehensive health coverage, and there is no reason it should be a public expenditure when a child's parent is perfectly able to pay for it.

The Child Support Performance Improvement Act of 1997 also takes an important step in requiring States to pay families back first. The bill ensures that States will not be allowed to count toward incentive payments the collection of arrearages that are not first returned to former welfare families who need such payments to remain financially independent. While the overall incentive structure rewards the States for good performance, the families first provision keeps the States from receiving a double bonus—allowing them to keep arrearages to reimburse themselves and then getting an incentive payment for it.

Finally, the bill adds tough but reasonable data requirements to make sure child support incentive payments are based on complete and reliable data from the States. States that do not have accurate data on their child support collections and on other aspects of child support enforcement should not be qualified to receive incentives. This provision will encourage States to make their collection systems even more efficient and, in turn, this will mean millions of additional dollars being directed to the children who need it.

The Child Support Performance Improvement Act of 1997 is the first vital step in assuring that the States have the most efficient and effective ways possible of collecting child support from parents who have the responsibility to care for their children. Increasing child support collections will not only save Federal and State Governments and taxpayers billions of dollars each year in public expenditures, it will accomplish the most important goal of all: improving the financial stability and general well-being of thousands of American children.

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. 1293

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 ''Child Support Performance Improvement Act of 1997''.

SEC. 2. INCENTIVE PAYMENTS TO STATES.

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

''SEC. 458A. INCENTIVE PAYMENTS TO STATES.

''(a) IN GENERAL.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

''(b) AMOUNT OF INCENTIVE PAYMENT.—

''(1) IN GENERAL.—The incentive payment for a State for a fiscal year is equal to the sum of the applicable percentages (determined in accordance with paragraph (3)) of the maximum incentive amount for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

''(A) The paternity establishment performance level.

''(B) The support order performance level.

''(C) The current payment performance level.

''(D) The arrearage payment performance level.

''(E) The cost-effectiveness performance level.

''(F) Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the medical support performance level.

''(2) MAXIMUM INCENTIVE AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the maximum incentive amount for a State for a fiscal year is—

''(i) subject to subsection (e)(2), with respect to the performance measures described

in subparagraphs (A), (B), and (C) of paragraph (1), 0.49 percent of the State collections base for the fiscal year;

''(ii) subject to subsection (e)(2), with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (1), 0.37 percent of the State collections base for the fiscal year; and

''(iii) with respect to the performance measure described in subparagraph (F), such percentage of the State collections base for the fiscal year as the Secretary by regulation may determine in accordance with subsection (e)(2).

''(B) STATE COLLECTIONS BASE.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

''(i) 2 times the sum of—

''(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

''(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

''(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

''(3) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.—

''(A) PATERNITY ESTABLISHMENT.—

''(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

"If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

''(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

''(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

"If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

''(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

''(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

''(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

''(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

''(E) COST-EFFECTIVENESS.—

''(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

''(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost-effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

''(F) MEDICAL SUPPORT.—Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the medical support performance level for a State for a fiscal year, and the applicable percentage for a State with respect to such level, shall be determined in accordance with regulations implementing the recommendations required to be included in the report submitted under section 2(d)(2)(B) of such Act.

''(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

''(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available, as obtained in accordance with section 452(a)(12). The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made not later than the beginning of the quarter involved), in the amounts so estimated, reduced, or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

''(e) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction, and regulations excluding from the calculations of the current payment performance level and the arrearage payment performance level any case in which the State used State funds to make such payments for the primary purpose of increasing the State's performance levels in such areas.

''(2) REGULATIONS IMPLEMENTING THE MEDICAL SUPPORT PERFORMANCE LEVEL.—Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the Secretary shall prescribe regulations implementing the recommendations required to be included in the report submitted under section 2(d)(2)(B) of such Act. To the extent necessary to ensure that the implementation of such recommendations does not result in total Federal expenditures under this section in excess of the amount of such expenditures in the absence of such implementation, such regulations may increase or decrease the percentages specified in clauses (i) and (ii) of subsection (b)(2)(A).

''(f) REINVESTMENT.—

''(1) IN GENERAL.—Until such time as the State qualifies for the maximum incentive amount possible, as determined under subsection (b)(2), payments under this section and section 458 shall supplement, not supplant, State child support expenditures under the State program under this part to the extent that such expenditures were funded by the State in fiscal year 1996.

''(2) PENALTY.—Failure to satisfy the requirement of paragraph (1) shall result in a proportionate reduction, determined by the Secretary, of future payments to the State under this section and section 458.''.

(b) PAYMENTS DURING TRANSITION PERIOD.—Notwithstanding section 458A of the Social Security Act (42 U.S.C. 658A), as added by subsection (a), the amount of an incentive payment for a State under such section shall not be—

(1) in the case of fiscal year 2000, less than 80 percent or greater than 120 percent of the incentive payment for the State determined under section 458 of the Social Security Act (42 U.S.C. 658) for fiscal year 1999 (as such section was in effect for such fiscal year);

(2) in the case of fiscal year 2001, less than 60 percent or greater than 140 percent of the incentive payment for the State (as so determined);

(3) in the case of fiscal year 2002, less than 40 percent or greater than 160 percent of the incentive payment for the State (as so determined); and

(4) in the case of fiscal year 2003, less than 20 percent or greater than 180 percent of the incentive payment for the State (as so determined).

(c) REGULATIONS.—Within 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act, when such section takes effect, and the implementation of subsection (b) of this section.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, such as child advocacy organizations, shall develop a new medical support performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1998, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that describes the performance measure and contains the recommendations required under subparagraph (A).

(C) CONGRESSIONAL DISAPPROVAL REQUIRED.—

(i) IN GENERAL.—The Secretary shall, by regulation, implement the recommendations required to be included in the report submitted under subparagraph (B) unless a joint resolution is enacted, in accordance with subparagraph (D), disapproving such recommendations before the end of the 1-year period that begins on the date on which the Secretary submits such report.

(ii) EXCLUSION OF CERTAIN DAYS.—For purposes of clause (i) and subparagraph (D), the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded from the computation of the period.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—For purposes of subparagraph (C)(i), the term ''joint resolution'' means only a joint resolution that is introduced within the 1-year period described in such subparagraph and—

(I) that does not have a preamble;

(II) the matter after the resolving clause of which is as follows: ''That Congress disapproves the recommendations of the Secretary of Health and Human Services regarding the implementation of a medical support performance measure submitted on ____'', the blank space being filled in with the appropriate date; and

(III) the title of which is as follows: ''Joint resolution disapproving the recommendations of the Secretary of Health and Human Services regarding the implementation of a medical support performance measure.''.

(ii) REFERRAL.—A resolution described in clause (i) that is introduced—

(I) in the House of Representatives, shall be referred to the Committee on Ways and Means; and

(II) in the Senate, shall be referred to the Committee on Finance.

(iii) DISCHARGE.—If a committee to which a resolution described in clause (i) is referred has not reported such resolution by the end of the 20-day period beginning on the date on which the Secretary submits the report required under subparagraph (B), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(iv) CONSIDERATION.—On or after the third day after the date on which the committee to which a resolution described in clause (i) has reported, or has been discharged from further consideration of such resolution, such resolution shall be considered in the same manner as a resolution is considered under subsections (d), (e), and (f) of section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

''(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State.''; and

(ii) in paragraph (2), by striking ''(c)'' and inserting ''(b)''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act (42 U.S.C. 658a) is redesignated as section 458.

(B) Paragraphs (1) and (2) of section 458(f) (as so redesignated) are each amended by striking ''and section 458''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2003.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

SEC. 3. DATA INTEGRITY.

(a) DUTY OF THE SECRETARY TO ENSURE RELIABLE DATA.—Section 452(a) of the Social Security Act (42 U.S.C. 652(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(12) ensure that data required for the operation of State programs is complete and reliable by providing Federal guidance, technical assistance, and monitoring.''.

(b) DENYING INCENTIVE PAYMENTS WHEN FEDERAL AUDITS FIND THAT CLAIMS ARE BASED ON INCOMPLETE OR UNRELIABLE DATA.—Section 409(a)(8)(A) of the Social Security Act (42 U.S.C. 609(a)(8)(A)) is amended by striking the period and inserting the following: '', and, in addition to the reductions specified in subparagraph (B), no State shall be eligible for incentive payments pursuant to section 458 or 458A for any fiscal year in which its claim is based on data found to be incomplete or unreliable pursuant to an audit or audits conducted under section 452(a)(4)(C).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

By Mr. JEFFORDS:

S. 1294. A bill to amend the Higher Education Act of 1965 to allow the consolidation of student loans the Federal Family Loan Program and the Direct Loan Program; to the Committee on Labor and Human Resources.

THE EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1997

Mr. JEFFORDS. Mr. President, I rise to introduce the Emergency Student Loan Consolidation Act of 1997. This bill will provide emergency relief to the nearly 70,000 students nationwide whose efforts to consolidate their student loans have been thwarted by the collapse of the Department of Education's Direct Loan Consolidation Program. In addition this bill makes conforming changes in the Higher Education Act to ensure that students who receive the Hope Tax Credit are able to receive all of the financial aid to which they are entitled. The Emergency Student Loan Consolidation Act of 1997 is the companion bill to H.R. 2535 which was favorably reported by the House Committee on Education and the Workforce on September 24, 1997, by a bipartisan vote of 43–0.

The rapidly rising cost of attending college is producing students with overwhelming student loan debt loads. The College Board reports that tuition at 4-year private institutions has risen by 89 percent over the past 15 years while median family income has risen by only 5 percent. Students are responding by borrowing at record levels—in fact, student borrowing under Title IV since 1990 exceeds student borrowing in the 1960's, 1970's, and 1980's combined. Between 1993 and 1995, graduate and professional student borrowing increased by over 74 percent.

In order to ease the burden of repaying these debts, Congress created the student loan consolidation program. This program allows students to consolidate their student loans into a single loan that has a variety of repayment options. Current law allows students to consolidate all of their Direct Student Loans and their Federal Family Education Loan Program [FFELP] loans into a Direct Lending Consolidation loan administered by the Department of Education. A student may consolidate his or her FFELP loans into a FFELP Consolidation Loan but may not consolidate his or her Direct Loans into the FFELP Program. As a result, borrowers who wish to consolidate both Direct Student Loans and FFELP loans into a single loan must go to the Department of Education.

Last August, the Department of Education announced that it had accumulated a backlog of 85,000 applications for consolidated loans and would cease accepting new applications until this backlog was eliminated. This decision places more than 70,000 students in limbo with no place to turn for help. This bill will provide temporary authority to allow them to consolidate all of their loans, both FFELP and Direct through the FFELP program.

In addition, this legislation makes technical corrections to the need analysis provisions of the Higher Education Act of 1965 to conform with changes made to the Tax Code earlier this year which provide students and parents with higher education tax credits. The bill addresses an oversight in the tax legislation which will result in some students receiving reduced student aid under Title IV of the Higher Education Act simply because they qualify for and receive the new tax credits. By adopting this change to the need analysis formula now, the Department can begin the process of revising the student aid application forms well in advance of the 1999 academic year.

Mr. President, I ask unanimous consent that a Washington Post article detailing the problems with the loan consolidation program be included in the RECORD.

I urge my colleagues to support this legisation.

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

EDUCATION DEPARTMENT SUSPENDS PROGRAM FOR RESTRUCTURING STUDENT LOANS

(By Rene Sanchez)

The Education Department, long maligned by congressional Republicans who say its management is a mess, has just give its critics new reason to howl.

The department announced last week that it will not accept any more applications from recent college graduates trying to consolidate or refinance their tuition loans until the contractor it hired for the job clears up an enormous backlog of those requests.

There are more than 70,000 college students nationwide whose loan payments may soon be in limbo because of the lengthy processing delays, and the waiting list has been growing longer each month. The department said that it had no choice but to suspend the popular program indefinitely in order to begin fixing the problem.

''It's a terrible embarrassment,'' said David Longanecker, the assistant secretary for postsecondary education. ''We were falling farther and farther behind, but by doing this we are confident that we'll get on top of the problem soon.''

The department faced a similar predicament last year when more than 900,000 student aid applications handled by private contractors it hired were delayed because of serious management problems. The incidents are raising new questions about the department's ability to manage its direct lending program, which allows students to get tuition loans straight from the federal government and offers them a range of repayment options.

Direct lending, one of President Clinton's most important education initiatives, has been under fire from Republicans and many private lenders—who no longer have a monopoly on the nations' massive student loan industry—ever since it was created five years ago. There have been several campaigns in Congress to abolish or severely limit the program, but it is still largely intact, serving more than 1,200 universities. Many college officials say they have been quite pleased with the program so far.

But to some Republican leaders, the latest trouble is proof that the department is not up to the task of handling the complexities of managing college loans at a time when a record number of students—at last count, more than 7 million—depend on them.

''From the very start of the program, I doubted the department's ability to become one of the largest banks in this country,'' Rep. William F. Goodline (R-Pa), chairman of the House Committee on Education and the Workforce, said last week. He called the department's inability to consolidate student loans quickly and efficiently ''irresponsible.''

With tuition costs at most campuses continuing to exceed inflation, and college loan debt soaring, more and more students are taking advantage of new opportunities to restructure their loans over longer periods of time or in ways that are based on what they earn after graduation.

Education department officials said that often in the last year they have received nearly 150,000 applications a month from students to consolidate loans, a rate that is nearly twice what they said they had expected when the program began.

But they adamantly reject criticism that direct lending is in shambles.

''I can understand the frustration, but I think we have to keep it in perspective,'' Longanecker. ''One reason we have this problem is because of the great popularity of the program.''

Longanecker said that the department is disappointed with the work of the contractor that it hired last year for the job. Electronic Data Systems, which was founded by billionaire Ross Perot. Longanecker said there were start-up problems in processing student requests, and that ever since the volume of applications has overwhelmed the system.

Some officials said that it had been taking more than seven months in same cases—an unpaid student loan falls into default after six months—to process applications. Because recent steps to improve performance had only put a small dent in the backlog of applications, Longanecker said the department decided instead to stop taking them for a while.

''It was like we were trying to fix a 747 while it was still in their air,'' he said.

The department has no estimates yet as to when the loan-consolidation program will be re-opened. But Longanecker said that he expects it certainly will be before December, which is a peak time for applications from students because that is when the most recent class of college graduates are supposed to start repaying their tuition loans.

That is hardly satisfying some critics, however. And some lawmakers say they are also losing confidence in how the department chooses its contractors, suggesting that the process does not seem as rigorous as it should be.

Education Department leaders scoff at much of the criticism coming from Republicans about direct lending, saying that many of them have never wanted the program to succeed anyway. But alarm over the latest management problem extends well beyond Capitol Hill.

''Up to now, they've done a pretty good job on this,'' said Terry Hartle, a vice president for the American Council on Education, a Washington group that represents more than 1,500 universities. ''But what we have here is a huge embarrassment in one of the president's signature education programs.''

Mrs. HUTCHISON. Mr. President, Americans should not have to choose between love and money. In a country that values families, the Federal Tax Code shouldn't punish people for being married. The number of unmarried-couple households increased 80 percent from 1980 to 1990, according to census figures. The percentage of people who never marry has doubled, from 5 percent in the 1950's to 10 percent today.

Today, I am pleased to introduce legislation with Senators FAIRCLOTH and MACK that will abolish the Federal income tax marriage penalty. Under this legislation, families will have the choice of filing as single or married, depending on which method works best for them.

There is something wrong with a law that imposes higher taxes on married people with two incomes than on single people. The hallmark of a fair tax system is even-handedness, and the current law flunks this test. From 1913 through 1969, the Federal income tax treated married couples either better or as well as if single. Since then, progressive tax rates have meant that married couples with two incomes have to pay more in Federal taxes than they would as individuals. The Congressional Budget Office reports that in 1996, more than 21 million married couples paid the marriage penalty. The average couple now pays $1,400 in additional income tax simply because they're married. One thousand four hundred dollars could mean six or seven car payments, a family vacation, or a computer for the family.

For example, a single person earning $24,000 a year is taxed at the rate of 15 percent. But, by taxing them on their combined income, the IRS collects 28 percent in tax from a working couple in which each spouse earns $24,000. It is wrong for two people living together to pay less taxes than if they were married.

Because American families increasingly have had two breadwinners, instead of one, more Americans are impacted by the marriage penalty. In 1969, 52 percent of American families had only one bread winner. Today that figure is 28 percent.

Mr. President, under current law, the only way to avoid the marriage penalty is not to marry or to leave your spouse if already married. This is wrong. We need a Tax Code to encourage marriage, not penalize it. This legislation is supported by Americans for Tax Reform and the National Taxpayers Union. We are introducing this bill with 34 co-sponsors, including every Member of the Republican leadership. I am very pleased to be working with Senators FAIRCLOTH and MACK and I hope Members from both sides of the aisle will join us in rectifying this unfair tax treatment of married couples.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 22

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 61

At the request of Mr. LOTT, the names of the Senator from Alabama [Mr. SESSIONS], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. DODD], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.