By Mr. DOMENICI:

S. 1727. A bill to authorize for the expansion annex of the historic Palace of the Governors, a public history museum located, and relating to the history of Hispanic and Native American culture, in the Southwest and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 1728. A bill to amend title XIX of the Social Security Act to remove the limit on amount of medicaid disproportionate share hospital payment for hospitals in Ohio; to the Committee on Finance.

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

S. 1729. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE:

S. 1730. An original bill to amend the Federal Water Pollution Control Act to provide that certain environmental reports shall continue to be required to be submitted; from the Committee on Environment and Public Works; placed on the calendar.

S. 1731. An original bill to amend the Clean Air Act to provide that certain environmental reports shall continue to be required to be submitted; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. BREAUX (for himself, Mr. JEFFORDS, Mr. GRASSLEY, Mr. KERREY, and Mr. HATCH):

S. 1732. A bill to amend the Internal Revenue Code of 1986 to prohibit certain allocations of S corporation stock held by an employee stock ownership plan; to the Committee on Finance.

By Mr. FITZGERALD (for himself, Mr. LEAHY, Mr. LUGAR, Mr. HARKIN, and Mr. CRAIG):

S. 1733. A bill to amend the Food Stamp Act of 1977 to provide for a national standard of interoperability and portability applicable to electronic food stamp benefit transactions; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 1734. A bill to authorize the Secretary of the Interior to contribute funds for the establishment of an interpretative center on the life and contributions of President Abraham Lincoln; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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

S. Res. 203. A resolution to authorize document production, testimony, and representation of Senate employees, in a matter before the Grand Jury in the Western District of Pennsylvania; considered and agreed to.

By Mr. SMITH of New Hampshire (for himself, Mr. BROWNBACK, and Mr. HELMS):

S. Con. Res. 59. A concurrent resolution urging the President to negotiate a new base rights agreement with the Government of Panama in order for United States Armed Forces to be stationed in Panama after December 31, 1999; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 1725. A bill to amend title XVIII of the Social Security Act to modernize Medicare supplemental policies so that outpatient prescription drugs are affordable and accessible for medicare beneficiaries; to the Committee on Finance.

THE DRUGGAP INSURANCE FOR SENIORS ACT OF 1999

Mr. JEFFORDS. Mr. President, I come to the floor today to introduce the DrugGap Insurance for Seniors Act of 1999, which will provide much-needed insurance coverage for medicines for low-income seniors, and will allow all other seniors, for the first time, to purchase an affordable, drug-only insurance policy to protect them against the runaway cost of drugs.

Mr. President, we are all aware that prescription drug costs continue to grow at an alarming rate. Seniors are being forced to spend greater and greater portions of their fixed incomes on prescription drugs that they need to live. Research and development of prescription drugs have come a long way since Medicare was originally enacted in 1965. Today, drugs are just as important, and in many cases more important, than hospital visits. It does not make sense for Medicare to reimburse hospitals for surgery, but not provide coverage for the drugs that might prevent surgery. That is why I am committed to modernizing the Medicare program so that it does not go bankrupt in the next 10 to 15 years. In addition, we must ensure that any Medicare reform proposal we consider includes a prescription drug benefit that helps all seniors.

This is a basic coverage problem that we must address as we modernize the Medicare program, and it is one of my top priorities. Ideally, it should be part of broad Medicare reform. Even if we are not able to achieve broad reform in the Medicare program this year, we must at least do something to address this basic need for seniors.

Today, I am introducing a bill that will target the most needy seniors. Currently, Medicare beneficiaries can purchase private insurance plans, called Medigap plans, to pay certain health care expenses that are not covered by Medicare. The law allows Medigap insurers to offer ten standardized plans to beneficiaries. However, only the three most expensive Medigap plans cover prescription drugs.

My plan calls for three new Medigap insurance plans to be developed that will cover only prescription drugs. The federal government will use a small portion of the budget surplus to purchase these new ''DrugGap'' policies for low-income Medicare beneficiaries who do not already have prescription drug coverage under Medicaid or through an employer sponsored plan. This bill provides all seniors the option of purchasing affordable, comprehensive coverage for prescription drugs even if they do not qualify for the federal government purchase plan. The bill also includes reforms to the Medigap system to give seniors more choice, and to keep Medigap premiums affordable.

Mr. President, this bill offers several significant advantages to Medicare beneficiaries who need coverage for prescription drugs. First, nothing will change for those Medicare beneficiaries who like their current Medigap plans. This bill will offer more choices for Medicare beneficiaries, but will not make seniors change coverage that they like.

Second, this plan does not mandate prescription drug benefits on the current standardized plans, which some critics have argued will raise premiums. Indeed, one of the goals of this legislation is to make Medigap more affordable, and to seek solutions to the problem of the spiraling cost of Medigap premiums. This bill offers a way to accomplish this goal.

This bill also gives DrugGap policy holders access to the deep discounts on drugs that HMOs get, even if the beneficiary has not met the policy's deductible, and makes it clear that insurance companies can issue drug discount cares to Medigap policy holders even if the policy doesn't cover prescription drugs.

Finally, this bill will provide federal grants to the states for counseling for seniors regarding this new benefit.

Mr. President, this bill is not a substitute for the much-needed Medicare reform and Medicare drug benefit, but it is a positive step that we can take right now to protect Medicare beneficiaries until Medicare reform can be achieved, and a broad drug benefit is implemented. I hope my colleagues will support this moderate approach to helping Medicare beneficiaries deal with the runaway costs of prescription drugs.

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

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 1725

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 ''DrugGap Insurance for Seniors Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Modernization of medicare supplemental benefit packages.
Sec. 4. Assistance to qualified low-income medicare beneficiaries.
Sec. 5. Grandfathering of current Medigap enrollees.
Sec. 6. Health insurance information, counseling, and assistance grants.
Sec. 7. NAIC study and report.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Coverage of outpatient prescription drugs is the most important aspect of medical care not currently provided under the medicare program under title XVIII of the Social Security Act.

(2) The medicare program needs to be reformed, and should include provisions that provide access to outpatient prescription drugs for all medicare beneficiaries.

(3) Comprehensive medicare reform will require extensive time and effort, but Congress must act now to provide outpatient prescription drug coverage to the most vulnerable medicare beneficiaries until such time as the medicare program is reformed.

(4) Low-income medicare beneficiaries are the most vulnerable to the high cost of outpatient prescription drugs, since they are often not eligible to receive benefits under medicaid, yet have incomes too low to afford medicare supplemental policies that include coverage for outpatient prescription drugs.

(5) Medicare beneficiaries deserve meaningful choices among medicare supplemental policies, including the option of purchasing affordable outpatient prescription drug-only medicare supplemental policies.

(6) Premiums for medicare supplemental policies have risen dramatically in recent years, and steps must be taken to keep premiums from rising out of the reach of medicare beneficiaries.

(7) Increased use of medicare supplemental policies does not represent sufficient structural medicare reform.

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

(1) To provide medicare supplemental policies covering outpatient prescription drugs to low-income medicare beneficiaries at no cost.

(2) To provide expanded choice to all medicare beneficiaries by creating affordable drug-only medicare supplemental policies.

(3) To ensure that medicare supplemental policies are modernized in a manner that promotes competition and preserves affordability for all medicare beneficiaries.

SEC. 3. MODERNIZATION OF MEDICARE SUPPLEMENTAL BENEFIT PACKAGES.

(a) ADDITION OF DRUGGAP POLICIES AND MODIFICATION OF EXISTING MEDIGAP POLICIES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) MODERNIZED BENEFIT PACKAGES FOR MEDICARE SUPPLEMENTAL POLICIES.—

''(1) PROMULGATION OF MODEL REGULATION.—

''(A) NAIC MODEL REGULATION.—If, within 9 months after the date of enactment of the DrugGap Insurance for Seniors Act of 1999, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') changes the 1991 NAIC Model Regulation (described in subsection (p)) to incorporate—

''(i) limitations on the benefit packages that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection;

''(ii) an appropriate range of coverage options for outpatient prescription drugs, including at least a minimal level of coverage under each benefit package;

''(iii) a deductible for outpatient prescription drugs that is uniform across each benefit package;

''(iv) uniform language and definitions to be used with respect to such benefits;

''(v) uniform format to be used in the policy with respect to such benefits; and

''(vi) other standards to meet the additional requirements imposed by the amendments made by the DrugGap Insurance for Seniors Act of 1999;

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2000 NAIC Model Regulation').

''(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2000 Federal Regulation').

''(C) DATE SPECIFIED.—

''(i) IN GENERAL.—Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the 2000 NAIC Model Regulation or 2000 Federal Regulation or 1 year after the date the NAIC or the Secretary first adopts such standards, whichever is earlier.

''(ii) STATES REQUIRING REVISIONS TO STATE LAW.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

''(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 2000 NAIC Model Regulation or 2000 Federal Regulation; but

''(II) having a legislature which is not scheduled to meet in 2001 in a legislative session in which such legislation may be considered;

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 2000. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

''(D) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

''(E) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits (including deductibles and coinsurance) under this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2000 NAIC Model Regulation or 2000 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

''(2) CORE GROUP OF BENEFITS AND NUMBER OF BENEFIT PACKAGES.—The benefits under the 2000 NAIC Model Regulation or 2000 Federal Regulation shall provide—

''(A) for such groups or packages of benefits as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

''(B) for identification of a core group of basic benefits common to all policies other than the medicare supplemental policies described in paragraph (12)(B); and

''(C) that, subject to paragraph (4)(B), the total number of different benefit packages (counting the core group of basic benefits described in subparagraph (B) and each other combination of benefits that may be offered as a separate benefit package) that may be established in all the States and by all issuers shall not exceed 10 plus the 2 benefit packages described in paragraph (11) and the 3 policies described in paragraph (12)(B).

''(3) BALANCE OF OBJECTIVES.—The benefits under paragraph (2) shall, to the extent possible, balance the objectives of—

''(A) ensuring that medicare supplemental policies are affordable for beneficiaries under this title, and that the policies modernized under this subsection do not have premiums higher than the medicare supplemental policies available on the date of enactment of the DrugGap Insurance for Seniors Act of 1999;

''(B) facilitating comparisons among policies;

''(C) avoiding adverse selection;

''(D) providing consumer choice;

''(E) providing market stability;

''(F) promoting competition;

''(G) including some drug coverage, however limited, in each of the 10 benefit packages described in paragraph (2)(C); and

''(H) ensuring that beneficiaries under this title receive the benefit of prices for outpatient prescription drugs negotiated by issuers of medicare supplemental policies under this section.

''(4) STATES MAY OFFER NEW OR INNOVATIVE SUPPLEMENTAL BENEFITS.—

''(A) COMPLIANCE WITH APPLICABLE 2000 NAIC MODEL REGULATION OR 2000 FEDERAL REGULATION REQUIRED.—

''(i) STATES.—Except as provided in subparagraph (B) or paragraph (6), no State with a regulatory program approved under subsection (b)(1) may provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable 2000 NAIC Model Regulation or 2000 Federal Regulation.

''(ii) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), the Secretary may not provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy seeking approval by the Secretary unless such grouping meets the applicable 2000 NAIC Model Regulation or 2000 Federal Regulation.

''(B) ADDITIONAL BENEFITS.—The issuer of a medicare supplemental policy may offer the benefits described in subsection (p)(3)(B) under the circumstances described in such subsection as if each reference to '1991' were a reference to '2000'.

''(5) STATES MAY NOT RESTRICT CORE BENEFITS.—

''(A) MEDICARE SUPPLEMENTAL POLICIES SUBJECT TO STATE REGULATION.—Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

''(B) MUST MAKE CORE BENEFITS AVAILABLE.—A State with a regulatory program approved under subsection (b)(1) may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

''(6) STATE ALTERNATIVE SIMPLIFICATION PROGRAMS.—The Secretary may waive the application of standards described in clauses (i) through (vi) of paragraph (1)(A) in those States that on the date of enactment of the DrugGap Insurance for Seniors Act of 1999

had in place an alternative simplification program.

''(7) DISCOUNTS FOR ITEMS AND SERVICES NOT COVERED UNDER MEDICARE SUPPLEMENTAL POLICIES.—This subsection shall not be construed as preventing an issuer of a medicare supplemental policy who otherwise meets the requirements of this section from providing, through an arrangement with a vendor, for discounts from that vendor to policy holders or certificate holders for the purchase of items or services not covered under its medicare supplemental policies or under this title, including the issuance of drug discount cards.

''(8) CIVIL PENALTY FOR VIOLATION OF THE MODEL REGULATION.—Except as provided in paragraph (10), any person who sells or issues a medicare supplemental policy, on and after the effective date specified in paragraph (1)(C), in violation of the applicable 2000 NAIC Model Regulation or 2000 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clauses (i) through (vi) of paragraph (1)(A) is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a seller who is not an issuer of a policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(9) REQUIREMENTS OF SELLERS.—

''(A) CORE BENEFIT PACKAGE.—Anyone who sells a medicare supplemental policy to an individual shall make available for sale to the individual a medicare supplemental policy with only the core group of basic benefits (described in paragraph (2)(B)).

''(B) OUTLINE OF COVERAGE.—Anyone who sells a medicare supplemental policy to an individual shall provide the individual, before the sale of the policy, an outline of coverage which describes the benefits under the policy. Such outline shall be on a standard form approved by the State regulatory program or the Secretary (as the case may be) consistent with the 2000 NAIC Model Regulation or 2000 Federal Regulation under this subsection.

''(C) PENALTIES.—Whoever sells a medicare supplemental policy in violation of this paragraph is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a seller who is not the issuer of the policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(D) EFFECTIVE DATE.—Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).

''(10) SAFE HARBOR FOR SELLERS.—No penalty may be imposed under paragraph (8) or (9) in the case of a seller who is not the issuer of a policy until the Secretary has published a list of the groups of benefit packages that may be sold or issued consistent with paragraph (1)(A)(i).

''(11) ADDITION OF HIGH DEDUCTIBLE MEDICARE SUPPLEMENTAL POLICIES.—For purposes of paragraph (2), the benefit packages described in this paragraph are the benefit packages modernized under this subsection that the Secretary determines are most comparable to the benefit packages described in subsection (p)(11).

''(12) DRUGGAP MEDICARE SUPPLEMENTAL POLICIES.—

''(A) ESTABLISHMENT OF DRUG-ONLY MEDICARE SUPPLEMENTAL POLICIES.—

''(i) IN GENERAL.—There are established 3 benefit packages, consistent with the benefit packages described in subparagraph (B), that—

''(I) consist of only outpatient prescription drug benefits;

''(II) may be designed to incorporate the utilization management techniques described in subparagraph (C);

''(III) do not include benefits for prescription drugs otherwise available under part A or B; and

''(IV) do not include benefits for any prescription drug excluded by the State in which the medicare supplemental policy is issued or sold under section 1927(d).

''(ii) DEFINITION.—In this section, the term 'DrugGap medicare supplemental policy' means a medicare supplemental policy (as defined in subsection (g)(1)) that has 1 of the benefit packages described in subparagraph (B).

''(B) BENEFIT PACKAGES DESCRIBED.—The benefit packages for DrugGap medicare supplemental policies described in this paragraph are as follows:

''(i) STANDARD DRUGGAP BENEFIT PACKAGES.—

''(I) STANDARD DRUGGAP.—A Standard DrugGap medicare supplemental policy that provides a deductible not to exceed $250, coinsurance not to exceed 20 percent, and a $5,000 maximum benefit.

''(II) LOW-COST STANDARD DRUGGAP.—A Low-Cost Standard DrugGap medicare supplemental policy that provides a deductible not to exceed $750, coinsurance not to exceed 30 percent, and a $5,000 maximum benefit.

''(ii) STOP-LOSS DRUGGAP BENEFIT PACKAGE.—A Stop-Loss DrugGap medicare supplemental policy that provides a stop-loss coverage benefit that limits the application of any beneficiary cost-sharing during a year after the beneficiary incurs out-of-pocket covered expenditures in excess of $5,000, or, in the case that the beneficiary owns a DrugGap medicare supplemental policy described in clause (i), such beneficiary reaches the maximum benefit under such policy.

''(iii) MAXIMUM BENEFIT DEFINED.—In this paragraph, the term 'maximum benefit' means the total amount paid for covered outpatient prescription drugs, including any amounts paid by the issuer of the DrugGap medicare supplemental policy and any cost-sharing paid by the policyholder.

''(C) USE OF UTILIZATION MANAGEMENT TECHNIQUES.—

''(i) FORMULARIES.—An issuer may use a formulary to contain costs under any benefit package established under subparagraph (A)(i) only if the issuer—

''(I) includes in the formulary at least 1 drug from each therapeutic class and provides at least 1 generic equivalent, if available; and

''(II) provides for coverage of otherwise covered nonformulary drugs when a nonformulary alternative is medically necessary and appropriate.

''(ii) OTHER UTILIZATION MANAGEMENT TECHNIQUES.—Nothing in this part shall be construed as preventing an issuer offering DrugGap medicare supplemental policies from using reasonable utilization management techniques, including generic drug substitution, consistent with applicable law.''.

(b) DRUGGAP MEDIGAP POLICIES DO NOT DUPLICATE OTHER MEDIGAP POLICIES.—Section 1882(d)(3) of the Social Security Act (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following:

''(ix) Nothing in this subparagraph shall be construed as preventing the sale of a DrugGap policy to an individual, provided that the sale is of a DrugGap policy that does not duplicate any health benefits under a medicare supplemental policy owned by the individual.'';

(2) in subparagraph (B)(ii)(I), by inserting ''and one DrugGap medicare supplemental policy'' before the comma; and

(3) in subparagraph (B)(iii)—

(A) in subclause (I), by striking ''(II) and (III)'' and inserting ''(II), (III), and (IV)'';

(B) by redesignating subclause (III) as subclause (IV); and

(C) by inserting after subclause (II) the following:

''(III) If the statement required by clause (i) is obtained and indicates that the individual is enrolled in 1 or more medicare supplemental policies, the sale of a DrugGap policy is not in violation of clause (i) if such DrugGap policy does not duplicate health benefits under any policy in which the individual is enrolled.''.

(c) ENROLLMENT IN CASE OF INVOLUNTARY TERMINATIONS OF COVERAGE.—Section 1882(s)(3)(C)(i) of the Social Security Act (42 U.S.C. 1395ss(s)(3)(C)(i)) is amended by striking ''under subsection (p)(2)'' and inserting ''under subsection (v)(2), a Standard DrugGap medicare supplemental policy under the standards established under subsection (v)(12)(B)(i), and a Stop-Loss DrugGap medicare supplemental policy under the standards established under subsection (v)(12)(B)(ii)''.

(d) SPECIAL ENROLLMENT PERIOD.—Section 1882(n) of the Social Security Act (42 U.S.C. 1395ss(n)) is amended by adding at the end the following:

''(7)(A) No medicare supplemental policy of the issuer shall be deemed to meet the standards in subsection (c) unless the issuer—

''(i) provides written notice, within a 60-day period specified in the modernization of the medicare supplemental policies under subsection (v), to the policyholder or certificate holder (at the most recent available address) of the offer described in clause (ii); and

''(ii) offers the individual under the terms described in subparagraph (B), during a period of 180 days beginning on the date specified in subparagraph (C), institution of coverage effective as of the date specified in the modernization described in clause (i) for such purpose, for any policy described under subsection (v).

''(B) The terms described under this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(C) The date specified in this subparagraph for a policy issued in a State is such date as the Secretary, in consultation with the NAIC, specifies (taking into account the method used under paragraph (4) for establishing a date under this subsection).''.

(e) CONFORMING AMENDMENTS.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking ''(p)'' and inserting ''(v)'';

(B) in subparagraph (A)—

(i) by striking ''1991'' each place it appears and inserting ''2000''; and

(ii) by striking ''(p)'' and inserting ''(v)''; and

(C) in the matter following subparagraph (B), by striking ''(p)'' and inserting ''(v)'';

(2) in subsection (o)—

(A) in paragraph (1), by striking ''(p)'' and inserting ''(v)''; and

(B) in paragraph (2), by striking ''(p)'' and inserting ''(v)''; and

(3) in subsection (r)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''(p)'' and inserting ''(v)''; and

(ii) in the matter following subparagraph (B), by striking ''(p)'' and inserting ''(v)''; and

(B) in paragraph (2)(A)—

(i) by striking ''(p)'' and inserting ''(v)''; and

(ii) by striking ''the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994'' and inserting ''the date of enactment of the DrugGap Insurance for Seniors Act of 1999''.

SEC. 4. ASSISTANCE TO QUALIFIED LOW-INCOME MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) is amended by adding at the end the following:

''SEC. 1849. ASSISTANCE TO QUALIFIED LOW-INCOME MEDICARE BENEFICIARIES.

''(a) QUALIFIED LOW-INCOME MEDICARE BENEFICIARY DEFINED.—For purposes of this part, the term 'qualified low-income medicare beneficiary' means an individual—

''(1) who is—

''(A) entitled to benefits under part A;

''(B) enrolled under this part; and

''(C) who does not have coverage for outpatient prescription drugs through enrollment in a Medicare+Choice plan offered by a Medicare+Choice organization under part C or in a group health plan;

''(2) who would be eligible for medical assistance under title XIX but for the fact that the individual's income exceeds the income level (expressed as a percentage of the poverty line) established by the State for eligibility for medical assistance under such title, including at least the care and services listed in paragraphs (1) through (5), (17), and (21) of section 1905(a), but does not exceed the lesser of—

''(A) 50 percentage points above such income level; or

''(B) 200 percent of the poverty line; and

''(3) who is enrolled in—

''(A) a Standard DrugGap medicare supplemental policy and a Stop-Loss DrugGap medicare supplemental policy as such policies are described in clauses (i)(I) and (ii) of section 1882(v)(12)(B), respectively; or

''(B) a Low-Cost Standard DrugGap medicare supplemental policy and a Stop-Loss DrugGap medicare supplemental policy as such policies are described in clauses (i)(II) and (ii) of section 1882(v)(12)(B), respectively.

''(b) PROGRAM ADMINISTERED BY THE STATES.—

''(1) IN GENERAL.—The Secretary shall establish an arrangement with each State (as defined under section 1861(x)) under which the State performs the functions described in paragraphs (2) through (4).

''(2) ANNUAL ELIGIBILITY.—The State shall determine whether a beneficiary under this title in the State is a qualified low-income medicare beneficiary. A determination that such an individual is a qualified low-income medicare beneficiary shall remain valid for a period of 12 months but is conditioned upon continuing enrollment in medicare supplemental policies described in subsection (a)(4).

''(3) COMPUTATION OF STATE WEIGHTED AVERAGE PREMIUM FOR STANDARD DRUGGAP AND STOP-LOSS DRUGGAP MEDICARE SUPPLEMENTAL POLICIES.—For each year, the State shall compute a State weighted average premium equal to the weighted average of the premiums for medicare supplemental policies described in clause (i)(I) of section 1882(v)(12)(B) and the medicare supplemental policies described in clause (ii) of such section for the State, with the weight for each medicare supplemental policy being equal to the average number of beneficiaries under this title enrolled under such policy in the previous year. In the initial year that such medicare supplemental policies are available, the State shall estimate the State weighted average premium for each type of policy.

''(4) PAYMENT BY STATES ON BEHALF OF QUALIFIED LOW-INCOME MEDICARE BENEFICIARIES.—The State shall provide for payment to the appropriate entity on behalf of a qualified low-income medicare beneficiary for a year in an amount equal to—

''(A) for the medicare supplemental policy described under clause (i) of section 1882(v)(12)(B) in which such beneficiary is enrolled, the lesser of—

''(i) the amount of the State weighted average premium (as computed under paragraph (3)) for the policies described under subclause (I) of such clause; or

''(ii) the full quoted premium for the policy;

''(B) for the medicare supplemental policy described under clause (ii) of section 1882(v)(12)(B) in which such beneficiary is enrolled, the lesser of—

''(i) the amount of the State weighted average premium (as computed under paragraph (3)) for the policies described under such clause; or

''(ii) the full quoted premium for the policy; and

''(C) such beneficiary out-of-pocket expenses related to the supplemental benefits provided under the policies described in subparagraphs (A) and (B) as the State determines is appropriate.

''(c) PAYMENTS TO STATES.—

''(1) REIMBURSEMENT FROM FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Each calendar quarter in a fiscal year, the Secretary shall pay to each State from the Federal Supplementary Medical Insurance Trust Fund under section 1841 an amount equal to the amount paid by the State under subsection (b)(4).

''(2) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B PREMIUM.—In estimating the benefits and administrative costs that will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under section 1839(a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to the application of this section.

''(3) CONSTRUCTION RELATIVE TO OTHER BENEFITS.—Nothing in this section shall be construed as requiring a State, under its plan under title XIX, to be responsible for any portion of the subsidy or beneficiary cost-sharing provided under this section to qualified low-income medicare beneficiaries.

''(d) MAINTENANCE OF STATE EFFORT REQUIREMENT.—In the case of any State in which the income level (expressed as a percentage of the poverty line) established by the State for eligibility for medical assistance under title XIX (that includes at least the care and services listed in paragraphs (1) through (5), (17), and (21) of section 1905(a)) is less than 150 percent of the poverty line applicable to a family of the size involved in a calendar quarter in a fiscal year—

''(1) no payment may be made to such State under section 1849(c) for a calendar quarter in a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the expenditures of the State for any State-funded prescription drug program for which individuals entitled to benefits under this section are eligible during the fiscal year is not less than the level of such expenditures for fiscal year 1999; and

''(2) payments shall not be made under this section for coverage of prescription drugs to the extent that—

''(A) payment is made under such a program; or

''(B) the Secretary determines payment would be made under such a program as in effect on the date of enactment of the DrugGap Insurance for Seniors Act of 1999.

''(e) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.''.

(b) CONFORMING AMENDMENT.—Section 1839(a)(3) of the Social Security Act (42 U.S.C. 1395r(a)(3)), as amended by section 5101(e) of the Tax and Trade Relief Extension Act of 1998 (contained in division J of Public Law 105–277), is amended by striking ''except as provided in subsection (g)'' and inserting ''except as provided in subsection (g) or section 1849(d)''.

SEC. 5. GRANDFATHERING OF CURRENT MEDIGAP ENROLLEES.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the date of enactment of this Act, and shall apply to medicare supplemental policies issued or sold after the date specified in subsection (b), but shall not apply to the renewal of medicare supplemental policies that are in existence on such date.

(b) DATE SPECIFIED.—The date specified in this subsection for each State is the date specified under section 1882(n)(7)(C) of the Social Security Act (42 U.S.C. 1395ss(n)(7)(C)) (as added by section 3(d) of this Act).

SEC. 6. HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.

(a) IN GENERAL.—Section 4360(b)(2)(A)(ii) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4(b)(2)(A)(ii)) is amended by striking ''and information'' and inserting '', providing specific information regarding any DrugGap benefit medicare supplemental policy described under section 1882(v) of the Social Security Act (42 U.S.C. 1395ss(v)), and information''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise appropriated, there are authorized to be appropriated $50,000,000 for each fiscal year, beginning with the first year in which a DrugGap medicare supplemental policy described in section 1882(v)(12) is available, for the purpose of carrying out the provisions of section 4360 of the Omnibus Budget Reconciliation Act of 1990 (as amended by subsection (a)).

SEC. 7. NAIC STUDY AND REPORT.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the National Association of Insurance Commissioners (referred to in this section as the ''NAIC'') to conduct a study of medicare supplemental policies offered under section 1882 of the Social Security Act (42 U.S.C. 1395ss) in order to identify—

(1) areas that are the cause of increasing medicare supplemental insurance claims costs (such as outpatient expenses) that affect the affordability of medicare supplemental policies;

(2) changes to Federal law (if any) required to address the issues identified under paragraph (1) to make medicare supplemental policies more affordable for beneficiaries under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(3) methods of encouraging additional issuers to offer such policies and to reduce the cost of premiums for such policies.

(b) REPORT.—Not later than November 1, 2001, the NAIC shall submit a report to the Secretary of Health and Human Services on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the NAIC together with recommendations for such legislation and administrative actions as the NAIC considers appropriate.

(c) TRANSMISSION TO CONGRESS.—Not later than January 1, 2002, the Secretary of Health and Human Services shall transmit the report submitted under subsection (b) to Congress together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

DRUGGAP INSURANCE FOR SENIORS ACT

PROPOSAL

The Federal government will purchase Medicare supplemental (''Medigap'') insurance policies covering prescription drugs (called ''DrugGap'' plans) for low-income seniors, which provides greater access to affordable medicines, and affordable insurance policies for all Medicare beneficiaries through modernized Medigap plans.

HOW IT WORKS

Current Coverage Continues: All beneficiaries currently enrolled in Medigap who are satisfied with their plans will keep their current policies, but those who want to take advantage of a new drug-only plan may do so.

Medigap Modernization: Under this proposal, the ten Medigap standardized plans will be reconsidered by the National Association of Insurance Commissioners (NAIC) in order to develop more efficient standardized policies that more appropriately represent today's dynamic health care system. The NAIC will use the same collaborative process outlined in OBRA '90 to modernize the ten standardized Medigap plans and determine the appropriate level of prescription drug coverage in each of the ten modernized plans. This process requires the participation of consumer groups, Medicare beneficiaries, and other representatives selected in a manner to assure balanced representation among the interested groups.

New Drug-Only ''DrugGap'' Plans: In addition to modernizing the existing ten standardized plans, NAIC would be required to develop three new standardized DrugGap plans, within the following structure:

(1) ''Standard DrugGap'' plan will have low deductible (maximum $250) and cost-sharing levels (maximum 20% copay), and a $5000 maximum benefit;

(2) ''Low-Cost Standard DrugGap'' will have somewhat higher deductible (maximum $750) and cost-sharing levels (maximum 30% copay), and $5000 maximum benefit;

(3) ''Stop-Loss DrugGap'' plan will cover any out-of-pocket prescription medicine costs after total prescription medicine costs reach $5000.

Affordability: Issuers of the new DrugGap plans will be given flexibility to employ a variety utilization management techniques to ensure affordability in these plans, including incentives to encourage appropriate generic substitution. The NAIC standards will include standards by which formularies could be developed, including requirements that all therapeutic classes of drugs will be covered, and beneficiaries will be guaranteed access to off-formulary drugs when they are necessary and appropriate. The standards will also include a mechanism to ensure appropriate utilization and to minimize incidents of adverse drug interactions, as well as mechanisms to ensure reasonable accessibility. Competition between plans will push actual deductible and coinsurance levels lower than the maximum allowable deductible and cost-sharing amounts.

Eligibility for Assistance: Any Medicare beneficiary who: (1) has income of less than 150% of the federal poverty level (in states where Medicaid eligibility is currently above 100% of poverty, the eligibility level will be 50 percentage points above the states' current Medicaid eligibility, up to 200% of the federal poverty level); (2) does not currently have employer-sponsored coverage for prescription drugs; and (3) who is not eligible to receive prescription drugs through Medicaid, is eligible to receive federal assistance. Each eligible beneficiary will receive federal assistance in purchasing a Standard DrugGap and Stop-Loss DrugGap plan.

Beneficiary Access: Any DrugGap plan may be purchased by any Medicare beneficiary regardless of whether the beneficiary is eligible for federal government assistance under this proposal.

Access to Discounts: Before the deductible has been satisfied, and after the maximum coverage amount of the DrugGap plan has been reached, plans are required to make drugs available to covered beneficiaries at the same price that is referenced by the plan in determining the plan coverage—i.e., beneficiaries purchase medications at the plan's discounted price. When providing drugs in these situations, plans may assess nominal administration/dispensing fees. This allows seniors to access the heavily discounted plan prices, which may be 20% to 25% lower than the market price for important prescription medicines.

Grants to States: This proposal will include grants to the states ($50 million) for counseling of seniors regarding this new benefit, and to help them access the new DrugGap policies.

Affordable Premiums: As a part of this Act, Congress would also instruct the NAIC to make recommendations regarding other regulatory and statutory changes which, if enacted, would reduce the cost of Medigap premiums, and would encourage more issuers to offer Medigap policies. These changes would address issues such as balance-billing and outpatient expenses.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE):

S. 1726. A bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations; to the Committee on Finance.

THE INDIAN TRIBAL GOVERNMENT UNEMPLOYMENT COMPENSATION ACT TAX RELIEF AMENDMENTS OF 1999

Mr. MCCAIN. Mr. President, I rise today on behalf of myself, Senator CAMPBELL and Senator INOUYE to introduce the Indian Tribal Government Unemployment Compensation Act Tax Relief Amendments of 1999.

This bill would correct a serious oversight in the way the Internal Revenue Code treats Indian tribal governments for unemployment tax purposes under the unique, State-Federal program authorized by the Federal Unemployment Tax Act (FUTA). It would clarify existing tax statutes so that tribal governments are treated just as State and local units of governments are treated for unemployment tax purposes.

It is well-settled that tribal governments are not taxable entities under the Federal Tax Code because of their governmental status. But in recent years, both the Internal Revenue service and the U.S. Department of Labor have begun to advance an interpretation of FUTA that is particularly burdensome to Indian tribal governments.

The IRS has begun to insist on collecting the Federal portion of the FUTA tax from tribal governmental employers. The IRS rationale is that because the FUTA statute expressly exempts charitable organizations and all State and local units of government from paying the Federal portion of the FUTA tax, but does not expressly mention tribal governments, it must collect the Federal portion of the tax from tribal employers.

The Labor Department, for its part, several years ago issued an opinion declaring that State unemployment funds may not treat tribal government employers like other governmental units and accord them ''reimburser'' status. The Department's rationale was that FUTA statute does not expressly authorize tribal governments to participate on a reimbursable basis, and so State Unemployment Funds were prohibited from allowing them to do so.

The Congressional Research Service conducted a study at my request in the early 1990s which revealed that FUTA was being applied to tribal government employers differently throughout our Nation. Some were allowed to participate, even as reimbursers. Others were denied participation but charged the full tax without getting any benefit whatsoever. The recent actions by the IRS and the Labor Department have only served to make the application of FUTA to tribal government employers even more confusing, contradictory, and unfair.

FUTA involves a joint Federal-State taxation system that levies two taxes on most employers: an 0.8 percent unemployment tax and a State unemployment tax ranging up to more than 9 percent of a portion of an employer's payroll. Since its enactment in the 1930s, FUTA has treated foreign, Federal, State, and local government employers differently from private commercial business employers. It exempts all foreign, Federal, State, and local government employers from the 0.8 percent Federal FUTA tax. It exempts foreign and Federal government employers from State unemployment programs and allows State and local government employers to pay lower State unemployment taxes as reimbursers. FUTA also treats income tax-exempt charitable organizations the same as State and local governments. All other private sector employers pay both the Federal and State FUTA tax rates. The FUTA statute does not expressly include tribal government employers within the definition of governmental employers.

This legislation will expressly authorize tribal governments, like State and local units of government and charitable organizations, to contribute to a State fund on a reimbursable basis for unemployment benefits actually

paid out. Private sector employers typically must pay an unemployment tax in advance. The rationale for reimburser status is that governmental employers, like tribes and States, have a far more stable employment environment than that of the private sector, and that governmental revenue should not be committed to such purposes in advance of when the obligation to pay arises.

Let me be clear, this bill would ensure that tribes participate in the unemployment compensation system. Some now do not do so. Their participation would be on the same terms as other governments. Tribal government employers would pay for every dime that is paid out in benefits to workers they lay off. But the bill would clarify the law to ensure that tribal government employers do not pay more than what is paid, a ''reimburser'' status long accorded all other governmental employers and tax-exempt organization employers.

The bill I am introducing today would permanently resolve this matter across the Nation for every Indian tribal government. Unless this problem is resolved, many former tribal government employees will continue to be denied benefits by State unemployment funds and many tribal government employers will be charged at much higher rates than are all other governmental and tax-exempt employers. I believe tribal governments should be treated no differently than all other governments under our tax code, and that Indian and non-Indian workers who are separated from tribal governmental employment should be included within our Nation's comprehensive unemployment benefit system. This bill will go a long way toward ensuring mandatory participation by tribal governments on a fair and equitable basis in the Federal-State unemployment fund system. I can think of nothing more fair than the approach clarified in this bill. I urge my colleagues to support this legislation.

Mr. President, the Joint Committee on Taxation, through the Congressional Budget Office, estimates the cost of this bill to be minimal, about ten million dollars over a ten-year period. The cost to implement these provisions in the first few years will eventually be offset over the ten-year period, resulting in a negligible effect on the Federal treasury.

I ask unanimous consent that the text of the legislation, as well as a September 27, 1999 letter from the Joint Committee on Taxation providing the revenue estimate on this bill, be printed in the RECORD.

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

S. 1726

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 Tribal Government Unemployment Compensation Act Tax Relief Amendments of 1999''.

SEC. 2. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER FEDERAL UNEMPLOYMENT TAX ACT.

(a) IN GENERAL.—Section 3306(c)(7) of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by inserting ''or in the employ of an Indian tribe,'' after ''service performed in the employ of a State, or any political subdivision thereof,''; and

(2) by inserting ''or Indian tribes'' after ''wholly owned by one or more States or political subdivisions''.

(b) PAYMENTS IN LIEU OF CONTRIBUTIONS.—Section 3309 of the Internal Revenue Code of 1986 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended—

(1) in subsection (a)(2), by inserting '', including an Indian tribe,'' after ''the State law shall provide that a governmental entity'';

(2) in subsection (b)(3)(B), by inserting '', or of an Indian tribe'' after ''of a State or political subdivision thereof'';

(3) in subsection (b)(3)(E), by inserting ''or the tribe's'' after ''the State''; and

(4) in subsection (b)(5) by inserting ''or of an Indian tribe'' after ''an agency of a State or political subdivision thereof''.

(c) STATE LAW COVERAGE.—Section 3309 of the Internal Revenue Code of 1986 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended by adding at the end the following:

''(d) ELECTION BY INDIAN TRIBE.—The State law shall provide that an Indian tribe may elect to make contributions for employment as if the employment is within the meaning of section 3306 or to make payments in lieu of contributions under this section, and shall provide that an Indian tribe may make separate elections for itself and each subdivision, subsidiary, or business enterprise chartered and wholly owned by such Indian tribe. State law may require an electing tribe to post a reasonable payment bond or take other reasonable measures to assure the making of payments in lieu of contributions under this section. An election under this subsection may not be made except by an Indian tribe within the meaning of section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).''.

(d) DEFINITIONS.—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following:

''(u) INDIAN TRIBE.—For purposes of this chapter, the term 'Indian tribe' has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), and includes any subdivision, subsidiary, or business enterprise chartered and wholly owned by such an Indian tribe.''.

(e) TRANSITION RULE.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of an Indian tribe (as defined in section 3306(u) of the Internal Revenue Code of 1986 (as added by this Act)) shall not be treated as employment (within the meaning of section 3306 of such Code) if—

(1) it is service which is performed before the date of enactment of this Act and with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid; and

(2) such Indian tribe reimburses a State unemployment fund for unemployment benefits paid for service attributable to such tribe for such period.

JOINT COMMITTEE ON TAXATION,
Washington, DC, September 27, 1999.

Hon. JOHN MCCAIN,
United States Senate,
Washington, DC.

DEAR SENATOR MCCAIN: This letter is in response to your request for an estimate of the revenue effects of the ''Indian Tribal Government Unemployment Compensation Act Tax Relief Amendments of 1999.''

The proposal would treat tribal governments like State governments for the purpose of defining their obligations under the Federal Unemployment Tax Act (''FUTA''). Specifically, tribal government employers would be exempt from the Federal unemployment tax and would be authorized to contribute to State unemployment funds on a reimbursement basis. The proposal is assumed to be effective for services performed on or after January 1, 2000.

Because the provision affects contributions to the FUTA trust fund, the Congressional Budget Office (''CBO'') estimates its revenue effects. CBO estimates that the provision would have the following effects for Federal fiscal year budget receipts:

Fiscal years:	*Million*
2000	−$20
2001	−11
2002	−10
2003	−9
2004	36
2000–2004	−14
2000–2009	−10

I hope this information is helpful to you. Please let me know if we can be of further assistance in this matter.

Sincerely,

LINDY L. PAULL.

Mr. CAMPBELL. Mr. President, today I am pleased to be joining Senator MCCAIN in co-sponsoring the Indian Tribal Government Unemployment Compensation Act Tax Relief Amendments of 1999. If enacted, this legislation will modify the Federal Unemployment Tax Act of 1935 (''FUTA'') to allow Indian tribal governments to receive the same unemployment compensation treatment as state and local governments.

FUTA imposes a tax on the wages paid by employers to their employees. From these tax proceeds, unemployment insurance and benefits for out-of-work citizens is provided. Under the bill introduced today, Indian tribal governments would be treated as state and local governments, and would be authorized to contribute to state unemployment funds on a reimbursable basis.

The Congressional Budget Office (CBO) estimated that this bill would have a minimal impact, $10 million over 10 years, on the Federal budget.

However, the impact that this amendment would have on Indian economic development is immeasurable. The development of strong tribal economies is fundamental for tribal self-sufficiency and self-determination.

Private enterprise is often reluctant to do business and hire Indian workers if legal, tax, and regulatory regimes they face are confusing or unfriendly. This legislation would eliminate any confusion over the applicability of the FUTA tax and would create a level playing field for tribal governments and enhance their ability to attract and retain the best skilled employees.

By providing equitable FUTA treatment to tribal government employers, this legislation will assist in the long-term growth and stability of tribal economies.

I urge my colleagues to join Senator MCCAIN and I in supporting this important legislation.

By Mr. DOMENICI:

S. 1727. A bill to authorize for the expansion annex of the historic Palace of the Governors, a public history museum located, and relating to the history of Hispanic and Native American culture, in the Southwest and for other purposes; to the Committee on Energy and Natural Resources.

THE PALACE OF THE GOVERNORS EXPANSION ACT

Mr. DOMENICI. Mr. President, in conjunction with Hispanic Heritage Month I am introducing the Palace of the Governors Expansion Act. The Palace is a symbol of Hispanic influence in the United States and truly shows the coming together of many cultures in the New World—the various Native American, Hispanic and Anglo peoples who have lived in the region for over four centuries.

It is appropriate that during Hispanic Heritage Month that a bill should be introduced to preserve a priceless collection of Spanish Colonial, Iberian Colonial paintings, artifacts, maps, books, guns, costumes, photographs. The collection includes such historically unique items as the helmets and armor worn by the Don Juan Onate expedition conquistadors who established the first capital in the United States, San Juan de los Caballeros, in July of 1598. It includes the Vara Stick, a type of yardstick used to measure land grants and other real property boundaries in Dona Ana County, New Mexico.

We have all heard of Geronimo. The Collection includes a rifle dropped by one of his men during a raid in the Black Range area of Western New Mexico.

We have all heard of Pancho Villa. His activities in the Southwest come alive when viewing some of the artifacts included in the Palace of the Governors Collection. The Columbus, New Mexico Railway Station clock was shot in the pendulum, freezing for all history the moment that Pancho Villa's raid and invasion began. It is part of the collection, but you wouldn't know it because there is no room to display it.

Brigadier General Stephen Watts Kearny was posted to New Mexico during the Mexican War. He commanded the Army of the West as they traveled from the Santa Fe trail to occupy the territories of New Mexico and California. As Kearny travelled, he carried a field desk which he used to write letters, diaries, orders and other historical documents. It is part of the collection, but you can't see it because there is no display space for it in the Palace of the Governors.

Many of us have read books by D. H. Lawrence, but none of us have seen the note from his mother that is part of the collection.

There are more than 800,000 other historic photographs, guns, costumes, maps, books and handicrafts.

Today, where are these treasures that Teddy Roosevelt wanted to make part of the Smithsonian housed now?

Where is this collection that has been designated as National Treasures by the National Trust for Historic preservation kept?

In the basement of a 400 year old building.

It is a national travesty.

This legislation would right this wrong by authorizing funds for a Palace of the Governors Expansion Annex. The entire project will cost $32 million. The legislation authorizes a $15 million federal grant if the Museum can match the grant on a 50–50 basis.

The Palace of the Governors has acquired a half block right behind the current Palace. Obtaining this valuable real estate is evidence of the ingenuity and commitment of those involved in preserving the collection. Real estate near Santa Fe's plaza is seldom for sale at any price, much less an affordable price.

Palace of the Governors has been the center of administrative and cultural activity over a vast region in the Southwest since its construction as New Mexico's second capitol in Santa Fe by Governor Pedro de Peralta in 1610. The building is the oldest continuously occupied public building in the United States. Since its creation, the Museum of New Mexico has worked to protect and promote Hispanic, Southwest and Native American arts and crafts.

I hope my colleagues will join me in supporting this important legislation saving this important collection. I ask unanimous consent that a copy 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. 1727

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

SECTION 1.

(a) SHORT TITLE.—This act may be cited as Palace of the Governors Expansion Act.

SEC. 2. CONSTRUCTION OF PALACE OF THE GOVERNORS EXPANSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development and cultural expression.

(2) The Palace of the Governors has been the center of administrative and cultural activity over a vast region of the Southwest since its construction as New Mexico's second capitol in Santa Fe by Governor Pedro de Peralta in 1610.

(3) The Palace of the Governors is the oldest continuously occupied public building in the United States and has been occupied for 390 years.

(4) Since its creation the Museum of New Mexico has worked to protect and promote Southwest, Hispanic and Native American arts and crafts.

(5) The Palace of the Governors is the history division of the Museum of New Mexico and was once proposed by Teddy Roosevelt to be part of the Smithsonian Museum and known as the ''Smithsonian West.''

(6) The Museum has a extensive and priceless collection of:

(A) Spanish Colonial and Iberian Colonial paintings including the Sagesser Hyde paintings on buffalo hide dating back to 1706,

(B) Pre-Columbian Art,

(C) Historic artifacts including:

(i) helmets and armor worn by the Don Juan Onate expedition conquistadors who established the first capital in the United States, San Juan de los Caballeros, in July of 1598.

(ii) The Vara Stick used to measure land grants and other real property boundaries in Dona Ana County, New Mexico.

(iii) The Columbus, New Mexico Railway Station clock that was shot, stopping the pendulum, freezing for all history the moment when Pancho Villa's raid began. It marks the beginning of the last invasion of the continental United States.

(iv) the field desk of Brigadier General Stephen Watts Kearny who was posted to New Mexico during the Mexican War and whose Army of the West traveled the Santa Fe trail to occupy the territories of New Mexico and California.

(v) more than 800,000 other historic photographs, guns, costumes, maps, books and handicrafts.

(7) The Palace of the Governors and the Sagesser Hyde paintings were designated Natural Treasures by the National Trust for Historic Preservation.

(8) The facilities both for exhibiting and storage of this irreplaceable collection are so totally inadequate and dangerously unsuitable that their existence is endangered and their preservation is in jeopardy.

(b) DEFINITIONS.—In this section:

(1) ANNEX.—The term ''Annex'' means the Palace of the Governors, Museum of New Mexico addition to be located directly behind the historic Palace of the Governors building at 110 Lincoln Avenue, Santa Fe, New Mexico.

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

(c) CONSTRUCTION OF THE ANNEX.—Subject to the availability of appropriations, the Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the final design, construction, furnishing and equipping of the Palace of the Governors Expansion Annex that will be located directly behind the historic Palace of the Governors at 110 Lincoln Avenue, Santa Fe, New Mexico.

(d) GRANT REQUIREMENTS.—(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico, acting through the Office of Cultural Affairs—

(A) shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the architectural blueprints for the Palace of the Governors Expansion Annex.

(B) shall exercise due diligence to obtain an appropriation from the New Mexico State Legislature for at least $8 million.

(C) shall exercise due diligence to expeditiously execute a memorandum of understanding recognizing that time is of the essence for the construction for the Annex because 2010 marks the 400th anniversary of the continuous occupation and use of the Palace of the Governors.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Annex.

(B) that Office of Cultural Affairs shall award the contract for construction of the

Annex in accordance with the New Mexico Procurement Code; and

(C) that the contract for the construction of the Annex—

(i) shall be awarded pursuant to a competitive bidding process.

(3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in section (c) shall be in cash or in kind fairly evaluated, including land, art and artifact collections, plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico for the design, land acquisition, library acquisition, library renovation, Palace of the Governors conservation, and construction, furnishing, equipping of the Annex, or donations of art collections to the Museum of New Mexico prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:

(A) cost of the land at 110 Lincoln Avenue, Sante Fe, New Mexico,

(B) Library acquisition expenditures,

(C) Library renovation expenditures,

(D) Palace conservation expenditures,

(E) New Mexico Foundation and other endowments funds,

(F) Donations of art collections or other artifacts.

(e) USE OF FUNDS FOR CONSTRUCTION.—FURNISHING AND EQUIPMENT.—Subject to funds being appropriated, the funds received under a grant awarded under subsection (c) shall be used only for the final design, construction, management, inspection, furnishing and equipment of the Annex.

(f) AUTHORIZATION OF APPROPRIATIONS.—Subject to funds being appropriated, there is authorized to be appropriated to the Secretary to carry out this section a total of $15,000,000 for fiscal year 2001 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended but are conditioned upon the New Mexico State legislature appropriating at least $8 million between date of enactment and 2010 and other non-federal sources providing enough funds, when combined with the New Mexico State legislature appropriations, to make this federal grant based on a fifty-fifty match.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 1728. A bill to amend title XIX of the Social Security Act to remove the limit on amount of medicaid disproportionate share hospital payment for hospitals in Ohio; to the Committee on Finance.

MEDICAID HOSPITAL PAYMENT FOR HOSPITALS IN OHIO

Mr. VOINOVICH. Mr. President, I rise today with my good friend and colleague from Ohio, Senator MIKE DEWINE, to introduce legislation that will remove the limit on the amount of federal Medicaid disproportionate share (DSH) payments for hospitals in Ohio. In 1993, Congress passed the Omnibus Budget Reconciliation Act (OBRA) in an effort to curb the rate of growth of federal Medicaid DSH spending to hospitals. Section 1923(g) of that bill placed maximum payment caps on hospitals. Subsequently, Congress passed the Balanced Budget Act (BBA) in 1997, in which Section 1923(f) placed funding caps on states. With the implementation of the aggregate state DSH spending limits, hospital-specific caps are no longer needed to assure the financial integrity of the program.

I have often spoken on the floor of the Senate in support of federalism. When the federal government makes overly prescriptive laws and regulations, it can erode the ability of state governments to protect consumers, promote economic development, and generate the revenue streams that fund education, public safety, infrastructure and other vital services. This is especially true in the case of Medicaid. Hospitals that provide care to indigent patients provide an invaluable service to their communities, often at great expense. DSH payments are intended to help reimburse those expenses. Congress should allow individual states to administer their DSH program in a way that provides the most funding for the most hospitals as possible. Without such leeway, we are imposing what is effectively an unfunded mandate on the private sector—telling these hospitals to treat Medicaid and uninsured patients without helping them pay for it. This is not good policy.

This legislation is federalism at its best. Section 1923(g) fails to recognize that each state implements its DSH program differently, and thus fails to recognize that the hospital-specific caps adversely affect Ohio hospitals. This legislation is budget neutral, yet it gives my state the flexibility to implement the Medicaid DSH program in the fairest and most equitable manner.

Under Ohio's DSH program, the Hospital Care Assurance Program (HCAP), all necessary hospital services are provided free of charge to persons below the federal poverty line. Generally, under HCAP, hospitals are taxed and those funds are used as the state's share to draw matching federal Medicaid DSH funds. The total pool is then distributed back to hospitals based on the level of each hospital's indigent care. Ideally, the DSH dollars should follow the indigent patients. However, partly because of the hospital-specific caps that were enacted in 1993, there are many HCAP hospitals that are reimbursed far less than the amount that would actually cover their indigent care expenses. The bill will give Ohio the ability to implement a new formula to correct this inequity within Ohio's overall spending limit.

Mr. President, Ohio deserves the authority to make health care decisions that are in the best interest of her citizens and their local hospitals. Ohio is not seeking additional federal dollars, merely the flexibility to allocate reimbursement funds under the DSH program where the funds are needed most. I urge passage of this legislation that will give relief to our hospitals and allow them to continue to provide quality care to each and every citizen in my state.

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. 1728

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

SECTION 1. REMOVAL OF LIMIT ON AMOUNT OF MEDICAID DISPROPORTIONATE SHARE HOSPITAL PAYMENT FOR HOSPITALS IN OHIO.

(a) IN GENERAL.—Section 1923(g)(1) of the Social Security Act (42 U.S.C. 1396r–4(g)(1)) is amended—

(1) in subparagraph (A), by striking ''A'' and inserting ''Except as provided in subparagraph (D), a''; and

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

''(D) EXCEPTION.—The limitations in subparagraphs (A) and (C) shall not apply to payments made to hospitals (other than institutions for mental diseases or other mental health facilities) located in Ohio.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments and payment adjustments made to hospitals on or after July 1, 1999.

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

S. 1729. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL TRAILS-WILLING SELLER LEGISLATION

Mr. CAMPBELL. Mr. President, today I am introducing legislation to amend the National Trails System Act to clarify federal authority relating to land acquisition from willing sellers. This bill is the companion to Congressman SCOTT MCINNIS' legislation. Congressman MCINNIS has been an advocate for this legislation for many years.

There are 20 trails in the national scenic and historic trail system. These trails are among some of the most beautiful areas in the United States and are deserving of preservation. This bill will enable the federal government to help conserve the special resources of all of these congressionally designated trails, enabling everyone to enjoy the benefit of these trails today and for future generations of Americans tomorrow.

This legislation does not appropriate any money, it only provides the federal government the authority to acquire lands from willing sellers. Once willing sellers are identified, Congress then appropriates the money so that the land can be purchased. It also will help to address the increasing development pressures that threaten the long-range continuity of the National Trails System.

Currently, the federal government only has authority to buy land along 11 of the 20 national scenic and historic trails. This bill gives authority to buy

land from willing sellers along the other nine trails to ensure that the entire trail can be preserved.

There are many unique and special historic sites along the nine affected scenic and historic trails. These sites have been voluntarily protected for several generations by responsible individual families. These families should have the right to sell these irreplaceable places of our nation's heritage to the federal government to continue their protection when and if they choose to do so.

This legislation is a vehicle to help preserve part of our natural heritage. I urge my colleagues to support passage of this bill. 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. 1729

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 ''Trails Willing Seller Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) despite commendable efforts by the State governments (including political subdivisions) and private volunteer trail groups to develop, operate, and maintain the national scenic and national historic trails, the rate of progress toward developing and completing the trails is slower than anticipated;

(2) Congress authorized several national scenic and historic trails between 1978 and 1986, with restrictions excluding Federal authority for land acquisition;

(3) to develop and complete the authorized trails as intended by Congress, acquisition authority to secure necessary rights-of-way and historic sites and segments specifically excluding condemnation authority should be extended to the head of each Federal agency administering a trail;

(4) to address the problems involving multijurisdictional authority over the national trails system, the head of each Federal agency with jurisdiction over an individual trail—

(A) should cooperate with appropriate officials of States (including political subdivisions) and private persons with an interest in the trails to complete the development of the trails; and

(B) should be granted sufficient authority to purchase land from willing sellers that is critical to the completion of the trails; and

(5) land or interests in land for the authorized components of the National Trails System affected by this Act should only be acquired by the Federal Government only from willing sellers.

SEC. 3. ACQUISITION OF TRAILS FROM WILLING SELLERS.

(a) ACQUISITION AUTHORITY.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) in the fourth sentence of paragraph (11)—

(A) by striking ''No lands or interest therein outside the exterior'' and inserting ''No land or interest in land outside of the exterior''; and

(B) by inserting before the period the following: ''without the consent of the owner of the land or interest''; and

(2) in the fourth sentence of paragraph (14)—

(A) by striking ''No lands or interests therein outside the exterior'' and inserting ''No land or interest in land outside of the exterior''; and

(B) by inserting before the period the following: ''without the consent of the owner of the land or interest''.

(b) EXPENDITURE OF FUNDS.—Section 10(c) of the National Trails System Act (16 U.S.C. 1249(c)) is amended by striking subsection (c) and all that follows through the end of paragraph (1) and inserting the following:

''(c) EXPENDITURE OF FUNDS.—

''(1) TRAILS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law (including any other provision of this Act), except as provided in subparagraph (B), no funds may be expended by the Federal Government for the acquisition of any land or interest in land outside of the exterior boundaries of Federal land that, on the date of enactment of this subparagraph, comprises—

''(i) the Continental Divide National Scenic Trail;

''(ii) the North Country National Scenic Trail;

''(iii) the Ice Age National Scenic Trail;

''(iv) the Oregon National Historic Trail;

''(v) the Mormon Pioneer National Historic Trail;

''(vi) the Lewis and Clark National Historic Trail; and

''(vii) the Iditarod National Historic Trail.

''(B) CONSENT OF LANDOWNER.—The Federal Government may acquire land or an interest in land outside the exterior boundary of Federal land described in subparagraph (A) with the consent of the owner of the land or interest.

''(2) FAILURE TO MAKE PAYMENT.—If the Federal Government fails to make payment in accordance with a contract for sale of land or an interest in land under this subsection, the seller may use all remedies available under all applicable law, including electing to void the sale.''.

By Mr. BREAUX (for himself, Mr. JEFFORDS, Mr. GRASSLEY, Mr. KERRY, and Mr. HATCH):

S. 1732. A bill to amend the Internal Revenue Code of 1986 to prohibit certain allocations of S corporation stock held by an employee stock ownership plan; to the Committee on Finance.

PROHIBITED ALLOCATIONS OF S CORPORATIONS STOCK HELD BY AN ESOP

● Mr. BREAUX. Mr. President, I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1732

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

SECTION 1. PROHIBITED ALLOCATIONS OF S CORPORATIONS STOCK HELD BY AN ESOP.

(a) IN GENERAL.—Section 409 of the Internal Revenue Code of 1986 (relating to qualifications for tax credit employee stock ownership plans) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) PROHIBITED ALLOCATIONS OF SECURITIES IN AN S CORPORATION.—

''(1) IN GENERAL.—An employee stock ownership plan holding employer securities consisting of stock in an S corporation shall provide that no portion of the assets of the plan attributable to (or allocable in lieu of) such employer securities may, during a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a)) for the benefit of any disqualified person.

''(2) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—If a plan fails to meet the requirements of paragraph (1), the plan shall be treated as having distributed to any disqualified person the amount allocated to the account of such person in violation of paragraph (1) at the time of such allocation.

''(B) CROSS REFERENCE.—

''For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.

''(3) NONALLOCATION YEAR.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonallocation year' means any plan year of an employee stock ownership plan if, at any time during such plan year—

''(i) such plan holds employer securities consisting of stock in an S corporation, and

''(ii) disqualified persons own at least 50 percent of the number of shares of stock in the S corporation.

''(B) ATTRIBUTION RULES.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The rules of section 318(a) shall apply for purposes of determining ownership, except that—

''(I) in applying paragraph (1) thereof, the members of an individual's family shall include members of the family described in paragraph (4)(D), and

''(II) paragraph (4) thereof shall not apply.

''(ii) DEEMED-OWNED SHARES.—Notwithstanding the employee trust exception in section 318(a)(2)(B)(i), for purposes of determining whether an individual is a disqualified person, such individual shall be treated as owning deemed-owned shares.

''(4) DISQUALIFIED PERSON.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified person' means any person if—

''(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

''(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

''(B) TREATMENT OF FAMILY MEMBERS.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as a disqualified person if not otherwise treated as a disqualified person under subparagraph (A).

''(C) DEEMED-OWNED SHARES.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'deemed-owned shares' means, with respect to any person—

''(I) the stock in the S corporation constituting employer securities of an employee stock ownership plan which is allocated to such person under the plan, and

''(II) such person's share of the stock in such corporation which is held by such plan but which is not allocated under the plan to participants.

''(ii) PERSON'S SHARE OF UNALLOCATED STOCK.—For purposes of clause (i)(II), a person's share of unallocated S corporation stock held by such plan is the amount of the unallocated stock which would be allocated to such person if the unallocated stock were allocated to all participants in the same proportions as the most recent stock allocation under the plan.

''(D) MEMBER OF FAMILY.—For purposes of this paragraph, the term 'member of the family' means, with respect to any individual—

''(i) the spouse of the individual,

''(ii) an ancestor or lineal descendant of the individual or the individual's spouse,

''(iii) a brother or sister of the individual or the individual's spouse and any lineal descendant of the brother or sister, and

''(iv) the spouse of any individual described in clause (ii) or (iii).

A spouse of an individual who is legally separated from such individual under a decree of divorce or separate maintenance shall not be treated as such individual's spouse for purposes of this subparagraph.

''(5) TREATMENT OF SYNTHETIC EQUITY.—For purposes of paragraphs (3) and (4), in the case of a person who owns synthetic equity in the S corporation, except to the extent provided in regulations, the shares of stock in such corporation on which such synthetic equity is based shall be treated as outstanding stock in such corporation and deemed-owned shares of such person if such treatment of synthetic equity of 1 or more such persons results in—

''(A) the treatment of any person as a disqualified person, or

''(B) the treatment of any year as a nonallocation year.

For purposes of this paragraph, synthetic equity shall be treated as owned by a person in the same manner as stock is treated as owned by a person under the rules of paragraphs (2) and (3) of section 318(a).

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

''(B) EMPLOYER SECURITIES.—The term 'employer security' has the meaning given such term by section 409(l).

''(C) SYNTHETIC EQUITY.—The term 'synthetic equity' means any stock option, warrant, restricted stock, deferred issuance stock right, or similar interest or right that gives the holder the right to acquire or receive stock of the S corporation in the future. Except to the extent provided in regulations, synthetic equity also includes a stock appreciation right, phantom stock unit, or similar right to a future cash payment based on the value of such stock or appreciation in such value.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.''

(b) COORDINATION WITH SECTION 4975(e)(7).—The last sentence of section 4975(e)(7) of such Code (defining employee stock ownership plan) is amended by inserting '', section 409(p),'' after ''409(n)''.

(c) EXCISE TAX.—

(1) APPLICATION OF TAX.—Subsection (a) of section 4979A of such Code (relating to tax on certain prohibited allocations of employer securities) is amended—

(A) by striking ''or'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting a comma, and

(C) by striking all that follows paragraph (2) and inserting the following:

''(3) there is any allocation of employer securities which violates the provisions of section 409(p), or

''(4) any synthetic equity is owned by a disqualified person in any nonallocation year,

there is hereby imposed a tax on such allocation or ownership equal to 50 percent of the amount involved.''

(2) LIABILITY.—Section 4979A(c) of such Code (defining liability for tax) is amended to read as follows:

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid—

''(1) in the case of an allocation referred to in paragraph (1) or (2) of subsection (a), by—

''(A) the employer sponsoring such plan, or

''(B) the eligible worker-owned cooperative,

which made the written statement described in section 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may be), and

''(2) in the case of an allocation or ownership referred to in paragraph (3) or (4) of subsection (a), by the S corporation the stock in which was so allocated or owned.''

(3) DEFINITIONS.—Section 4979A(e) of such Code (relating to definitions) is amended to read as follows:

''(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DEFINITIONS.—Except as provided in paragraph (2), terms used in this section have the same respective meanings as when used in sections 409 and 4978.

''(2) SPECIAL RULES RELATING TO TAX IMPOSED BY REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION (a).—

''(A) PROHIBITED ALLOCATIONS.—The amount involved with respect to any tax imposed by reason of subsection (a)(3) is the amount allocated to the account of any person in violation of section 408(p)(1).

''(B) SYNTHETIC EQUITY.—The amount involved with respect to any tax imposed by reason of subsection (a)(4) is the value of the shares on which the synthetic equity is based.

''(C) SPECIAL RULE FOR PROHIBITED ALLOCATION DURING FIRST NONALLOCATION YEAR.—For purposes of subparagraph (A), the amount involved for the first nonallocation year of any employee stock ownership plan shall be determined by taking into account the total value of all the deemed-owned shares of all disqualified persons with respect to such plan.

''(D) STATUTE OF LIMITATIONS.—The statutory period for the assessment of any tax imposed by this section by reason of paragraph (3) or (4) of subsection (a) shall not expire before the date which is 3 years from the later of—

''(i) the allocation or ownership referred to in such paragraph giving rise to such tax, or

''(ii) the date on which the Secretary is notified of such allocation or ownership.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

(2) EXCEPTION FOR CERTAIN PLANS.—In the case of any—

(A) employee stock ownership plan established after July 14, 1999, or

(B) employee stock ownership plan established on or before such date if employer securities held by the plan consist of stock in a corporation with respect to which an election under section 1362(a) of the Internal Revenue Code of 1986 is not in effect on such date,

the amendments made by this section shall apply to plan years ending after July 14, 1999.●

By Mr. FITZGERALD (for himself, Mr. LEAHY, Mr. LUGAR, Mr. HARKIN, and Mr. CRAIG):

S. 1733. A bill to amend the Food Stamp Act of 1977 to provide for a national standard of interoperability and portability applicable to electronic food stamp benefit transactions; to the Committee on Agriculture, Nutrition, and Forestry.

THE ELECTRONIC BENEFIT TRANSFER INTEROPERABILITY AND PORTABILITY ACT OF 1999

Mr. FITZGERALD. Mr. President, I rise today with my Colleagues to introduce the Electronic Benefit Transfer Interoperability and Portability Act of 1999. This legislation addresses the problem of food stamp beneficiaries being unable to redeem their benefits in authorized stores that may be located outside their state of residence.

As you may know, Congress passed legislation in 1996 that required the federal government to deliver food stamp benefits electronically, rather than using the paper coupons. Most states have started the process of issuing plastic cards, very similar to ATM cards to access these benefits. The federal government termed this new process, electronic benefits transfer (EBT).

You may have noticed a separate button on the payment terminal in your local supermarket with the designation ''EBT'' or a separate stand-alone payment terminal to handle these new transactions.

More than half of the country has already switched from the paper coupons to this new EBT card. However, one significant issue is causing problems in the program for retailers, states and recipients. That issue is the inability for recipients to use their state-issued cards across state lines. This is especially true in communities that are near a state border.

Under the old paper system, recipients could use the coupons in any state in the country. Under the new electronic system, that is currently not the case. Customers go into a food store expecting to use their federal benefits to purchase food and when they cannot use their EBT cards, they become frustrated and dissatisfied with the food stamp program.

For example, under the old system, a food stamp recipient living in Palmyra, MO could use their food stamp coupons in their favorite grocery store in Quincy, IL just over the Illinois border. Similarly, a recipient living in Illinois could visit family in Tennessee and still purchase food for their children. Food stamp beneficiaries are not unlike the average shopper. Cross border shopping occurs for a variety of reasons. One reason is convenience; another equally important one is the cost of groceries. The supermarket industry is very competitive. Customers paying with every type of tender except EBT have the ability to shop around for the best prices. Shouldn't recipients of our nation's federal food assistance benefits be able to stretch their dollars without regard to state borders?

Another reason is convenience. While one of my constituents may live in the metro east area, they might work in St. Louis. Under the current situation, if the only grocery store between their work and their home is in Missouri, the recipient cannot purchase food without traveling out of their way.

The legislation I am introducing today would once again, provide for the portability of food assistance benefits and allow food stamp recipients the flexibility of shopping at locations that they choose.

Interoperability works well today with ATM/Debit cards, the type of cards that EBT was modeled after. Consumers and merchants are confident that when a MAC card issued by a bank in Pittsburgh is presented, authorization and settlement of that transaction will work the same as when a Star card, issued by Bank of America in California is presented. This occurs regardless of where the merchant is located.

Unfortunately, this is currently not the case with EBT cards. If every state operated their EBT program under a standard set of operating rules as this legislation requires, companies operating in multiple states could be more efficient, resolve any discrepancies in customer accounts more quickly and ultimately hold down the price of groceries for all consumers.

This legislation I am introducing is very straightforward. Specifically, the legislation:

Requires interoperability by October 1, 2002, with a few exceptions needing a waiver;

Requires USDA to ''adopt'' the national standard used by the majority of the States;

Requires USDA to pay for all interoperability costs (currently estimated by Benton International to be no more than a maximum of $500,000 annually when all states are on EBT systems or $160,000 for the current year), significantly less than the $20 million USDA pays annually to the Federal Reserve to redeem coupons;

Requires contracts entered into after the date when the national standard is adopted to use the standard, and for USDA to pay the interoperability costs;

Includes transitional funding for states currently using a national standard. Upon enactment, FNS will pay 100 percent of the costs of interoperability fees for current states using a national standard (While the interoperability pilot sponsored by NACHA is due to expire in September, this would allow those states and beneficiaries in states participating in the pilot to continue to have interoperable transactions beyond the pilot period without interruption.);

Requires current contracts that are not using the national standard to convert at the point of a new contract;

Includes a waiver process for current states with significant technological challenges to provide time to convert to the national standard (This is intended to cover current smart card states).

This legislation is more about good government than it is about food stamps. Since 1996, the transition from paper coupons to electronic benefit transfer has saved the federal government a significant amount of money. For example, while the food stamp caseload decreased 24 percent from fiscal year 1995 to 1998, food stamp production and redemption costs dropped by an impressive 39 percent. While it is estimated that the bill's implementation will cost the federal government no more than $500,000 annually, it will save at least $20 million per year when paper coupons are a thing of the past.

This legislation is sound public policy that enjoys bipartisan support. I thank my Colleagues, Senators LEAHY, LUGAR, HARKIN and CRAIG, for joining me as co-sponsors of this bill. I would stress to my fellow Senators that this legislation is vitally important to every food stamp recipient, every state food stamp program administrator and every grocery store nationwide. I ask each of you to join me as co-sponsors of this important legislation.

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. 1733

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 ''Electronic Benefit Transfer Interoperabilty and Portability Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to protect the integrity of the food stamp program;

(2) to ensure cost-effective portability of food stamp benefits across State borders without imposing additional administrative expenses for special equipment to address problems relating to the portability;

(3) to enhance the flow of interstate commerce involving electronic transactions involving food stamp benefits under a uniform national standard of interoperability and portability; and

(4) to eliminate the inefficiencies resulting from a patchwork of State-administered systems and regulations established to carry out the food stamp program

SEC. 3. INTEROPERABILTY AND PORTABILITY OF FOOD STAMP TRANSACTIONS.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

''(k) INTEROPERABILTY AND PORTABILITY OF ELECTRONIC BENEFIT TRANSFER TRANSACTIONS.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELECTRONIC BENEFIT TRANSFER CARD.—The term 'electronic benefit transfer card' means a card that provides benefits under this Act through an electronic benefit transfer service (as defined in subsection (i)(11)(A)).

''(B) ELECTRONIC BENEFIT TRANSFER CONTRACT.—The term 'electronic benefit transfer contract' means a contract that provides for the issuance, use, or redemption of coupons in the form of electronic benefit transfer cards.

''(C) INTEROPERABILTY.—The term 'interoperability' means a system that enables a coupon issued in the form of an electronic benefit transfer card to be redeemed in any State.

''(D) INTERSTATE TRANSACTION.—The term 'interstate transaction' means a transaction that is initiated in 1 State by the use of an electronic benefit transfer card that is issued in another State.

''(E) PORTABILITY.—The term 'portability' means a system that enables a coupon issued in the form of an electronic benefit transfer card to be used in any State by a household to purchase food at a retail food store or wholesale food concern approved under this Act.

''(F) SETTLING.—The term 'settling' means movement, and reporting such movement, of funds from an electronic benefit transfer card issuer that is located in 1 State to a retail food store, or wholesale food concern, that is located in another State, to accomplish an interstate transaction.

''(G) SMART CARD.—The term 'smart card' means an intelligent benefit card described in section 17(f).

''(H) SWITCHING.—The term 'switching' means the routing of an interstate transaction that consists of transmitting the details of a transaction electronically recorded through the use of an electronic benefit transfer card in 1 State to the issuer of the card that is in another State.

''(2) REQUIREMENT.—Not later than October 1, 2002, the Secretary shall ensure that systems that provide for the electronic issuance, use, and redemption of coupons in the form of electronic benefit transfer cards are interoperable, and food stamp benefits are portable, among all States.

''(3) COST.—The cost of achieving the interoperability and portability required under paragraph (2) shall not be imposed on any food stamp retail store, or any wholesale food concern, approved to participate in the food stamp program.

''(4) STANDARDS.—Not later than 120 days after the date of enactment of this subsection, the Secretary shall promulgate regulations that—

''(A) adopt a uniform national standard of interoperability and portability required under paragraph (2) that is based on the standard of interoperability and portability used by a majority of State agencies.

''(B) require that any electronic benefit transfer contract that is entered into 30 days or more after the regulations are promulgated, by or on behalf of a State agency, provide for the interoperability and portability required under paragraph (2) in accordance with the national standard.

''(5) EXEMPTIONS—

''(A) WAIVER.—At the request of a State agency, the Secretary may provide 1 waiver to temporarily exempt, for a period ending on or before the date specified under clause (iii), the State agency from complying with the requirements of paragraph (2), if the State agency—

''(i) establishes to the satisfaction of the Secretary that the State agency faces unusual technological barriers to achieving by October 1, 2002, the interoperability and portability required under paragraph (2);

''(ii) demonstrates that the best interest of food stamp benefit households and of the food stamp program would be served by granting the waiver with respect to the electronic benefit transfer system used by the State agency to administer the food stamp program; and

''(iii) specifies a date by which the State agency will achieve the interoperability and portability required under paragraph (2).

''(B) SMART CARD SYSTEMS.—The Secretary shall allow a State agency that is using smart cards for the delivery of food stamp program benefits to comply with the requirements of paragraph (2) at such time after October 1, 2002, as the Secretary determines that a practicable technological method is available for interoperability with electronic benefit transfer cards.

''(6) FUNDING.—

''(A) IN GENERAL.—In accordance with regulations promulgated by the Secretary, the Secretary shall pay 100 percent of the costs incurred by a State agency under this Act for switching and settling interstate transactions—

''(i) incurred after the date of enactment of this subsection and before October 1, 2002, if

the State agency uses the standard of interoperability and portability adopted by a majority of State agencies; and

''(ii) incurred after September 30, 2002, if the State agency uses the uniform national standard of interoperability and portability adopted under paragraph (4)(A).

''(B) LIMITATION.—The total amount paid to State agencies for each fiscal year under subparagraph (A) shall not exceed $500,000.''.

SEC. 4. STUDY OF ALTERNATIVES FOR HANDLING ELECTRONIC BENEFIT TRANSACTIONS INVOLVING FOOD STAMP BENEFITS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on alternatives for handling interstate electronic benefit transactions involving food stamp benefits provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including the feasibility and desirability of a single hub for switching (as defined in section 7(k)(1) of that Act (as added by section 3)).

Mr. LEAHY. Mr. President, I am proud to join Senator FITZGERALD in cosponsoring the Electronic Benefit Interoperability and Portability Act of 1999.

The Food Stamp Program has been critical to diminishing hunger and improving nutrition and health throughout our country. As the country's largest source of food aid, approximately 18 million people—half of which are children—receive food stamp benefits every month. In my home State of Vermont, more than 20,000 households depend on food stamps to help feed their families.

In an effort to strengthen and streamline the Food Stamp Program, three years ago Congress mandated that every State switch to an Electronic Benefits Transfer system for distributing food stamp benefits. Operating like ATM or credit card machines at cash registers, EBT streamlines food stamps by eliminating the cumbersome paper system.

The implementation of the EBT system was left up to the States, and nearly 40 States currently have switched to this new system. EBT has already demonstrated itself to be a more efficient system for distributing food stamp benefits, and it promises to help reduce food stamp fraud.

However, three years into the implementation of EBT, a problem has arisen—some State EBT systems do not match up with neighboring State EBT systems, leaving residents of border communities unable to utilize their food stamp benefits across State lines. This Federal benefit program has always been recognized and redeemable in every State, irrespective of where the actual food stamps were issued.

For some of our more rural States, the inability to access food stamp benefits across State lines could mean the difference between traveling a few miles to a grocery store in the next State to traveling an hour or more to the closest grocery store in one's home State. Clearly, this creates quite a burden.

The bill which we are introducing today would correct this oversight by requiring the U.S. Department of Agriculture to adopt a national EBT standard, and requiring that all States be EBT interoperable by 2002.

Vermont Commissioner of Social Welfare Jane Kitchel has voiced her support for this bill, as has the New England Convenience Store Association.

Mr. President, I would like to thank Senator FITZGERALD for all of his work on this issue. I believe that this bill will help make the Food Stamp Program more streamlined and efficient, and I am proud to cosponsor this legislation.

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

S. 1734. A bill to authorize the Secretary of the Interior to contribute funds for the establishment of an interpretive center on the life and contributions of President Abraham Lincoln; to the Committee on Energy and Natural Resources.

ABRAHAM LINCOLN PRESIDENTIAL LIBRARY

● Mr. DURBIN. Mr. President, today I am pleased to be joined by my Illinois colleague, Senator FITZGERALD, in introducing legislation that would authorize an important Department of the Interior project—the Abraham Lincoln Presidential Library in Springfield, Illinois.

I should begin by confessing a Lincoln bias. Obviously, I'm an Illinoisan, but I hail from the same city, Springfield, that Abraham Lincoln once called home. I practiced law in an office not far from the historic Lincoln-Herndon Law Office. I also represented a district in the U.S. House of Representatives that included portions of the district Congressman Abraham Lincoln represented in the 30th Congress—1847 to 1849. My home state, the ''Land of Lincoln,'' holds the former President in very high regard.

Abraham Lincoln is considered to be one of our nation's greatest Presidents. Yet, his works and the story of his life and public service are spread over numerous historic sites, monuments, museums, and private collections of Lincoln memorabilia. The State of Illinois has a more than 42,000-item Lincoln Collection which contains national treasures such as the Gettysburg Address, the Emancipation Proclamation, and Lincoln's Second Inaugural Address. The Collection is part of the State's 12-million-item historical library, which is the nation's only public institution engaged in ongoing research on the life and legacy of Abraham Lincoln.

Currently, 13 former Presidents, including Confederate leader Jefferson Davis, have presidential libraries. Our 16th President certainly deserves such a facility so children and people from around the world can learn from the excellent examples Lincoln set during his life and his Presidency and historians can continue to discover more about the man who preserved the Union.

The Abraham Lincoln Presidential Library would serve as a state-of-the-art, interactive library, museum, and interpretative center where visitors could learn about Abraham Lincoln and the events and places that shaped his life and the history of our country. It would also serve as an academic archive and research facility for scholars to study Illinois' collection of Lincoln documents and personal effects.

The legislation we are introducing today would require that for every dollar of federal funds directed toward this project, two dollars must come for other non-federal sources. The State of Illinois and the City of Springfield have already pledged significant financial support for the Library. Also, it is important to note that the U.S. Department of the Interior is not being asked to operate or maintain the facility. The State of Illinois, through the Illinois Historic Preservation Agency, would run the day-to-day operations and handle upkeep of the Library.

Mr. President, the Illinois Congressional Delegation, Illinois Governor George Ryan, and the City of Springfield strongly support this important project and this authorizing legislation. I urge my colleagues to join me and Senator FITZGERALD in constructing a lasting legacy for Abraham Lincoln.●

ADDITIONAL COSPONSORS

S. 31

At the request of Mr. THURMOND, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 31, a bill to amend title 1, United States Code, to clarify the effect and application of legislation.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 631

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 662

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 662, a bill to amend title