By Mr. DOMENICI (for himself, Mr. EXON, Mr. CRAIG, Mr. BRADLEY, Mr. COHEN, and Mr. DOLE):

S. 14. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committees have 30 days to report or be discharged.

LEGISLATIVE LINE ITEM VETO ACT

Mr. DOMENICI. Mr. President, I introduce legislation to give the President a legislative line-item veto. I am particularly pleased to be joined by the distinguished ranking minority member of the Senate Budget Committee, Senator EXON, and Senators CRAIG, BRADLEY, and DOLE in introducing this legislation. We have a bipartisan bill that I think will enjoy strong support in the Senate and has the best chance of becoming law.

The American people are demanding greater accountability for the decisions that Congress makes. If Congress includes provisions in legislation that provide new spending that cannot stand on its merits, then there should be a procedure to extract this funding. The legislation we introduce today provides such a procedure.

Mr. President, there is a great deal of support for an item veto. All but two Presidents in the 20th century have expressed their support for an item veto authority. President Clinton campaigned on a promise that he could cut spending by $10 billion from the enactment of a line-item veto. Forty-three of our 50 State Governors have some form of item veto authority. Finally, the House, even under Democratic control, has sent the Senate two separate rescission bills during the 103d Congress.

There are two statutory line-item approaches that the Congress will consider. The first, Senator McCaIN’s enhanced rescission bill would provide the President with unilateral authority to delete any item funded in an appropriations bill. In order to overturn the President’s action, each House of Congress would have to pass a bill of disapproval, send it to the President, and then override the President’s veto of this bill of disapproval. This provides an extraordinary shift of power from the legislative branch to the executive branch.

The second approach, embodied in the legislation that I introduce today, is frequently referred to as expedited rescission authority. Under this approach, the President proposes a rescission and is guaranteed a vote up or down by Congress on these proposed rescissions.

Our legislation is stronger than the enhanced rescission bill in many respects, but I will just mention two provisions. Our bill provides a “lock box” to guarantee that any savings go to deficit reduction. It also extends this rescission authority to direct spending, the real culprit behind the growth in Federal spending, and targeted tax benefits.

There is no question that discretionary spending can contribute to deficit reduction, but discretionary spending is a shrinking as a portion of the budget. Direct spending, spending outside the control of the appropriations process, will grow from 54 percent to 62 percent of the budget over the next 10 years.

Mr. President, the Constitution grants the President the power of the sword and the Congress the power of purse. The President has a great deal of power as Commander-in-Chief as we have most recently seen in Haiti. I am not ready today to turn as much of Congress’ power over the purse over to the President as provided for in Senator McCaIN’s enhanced rescission proposal. But I do think there is a need to recalibrate the scales, balance them, and guarantee the President a vote on his or her rescission proposals.

Finally, Mr. President, I would like to take a moment to commend the senior Senator from Idaho, Senator CRAIG, for his leadership on this legislation. The legislation I introduce today, in many respects, represents the work product of the distinguished Senator from Idaho. In addition, the legislation borrows heavily from previous legislation written by the senior Senator from Maine, Senator COHEN, and the efforts of the senior Senator from New Jersey to fight tax breaks in our laws.

Mr. President, I ask unanimous consent that a brief description and the text of this legislation be printed in the RECORD.

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

S. 14

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 “Legislative Line Item Veto Act.”

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

“SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

“(1)(A) Subject to the time limitations provided in subparagraph (B), the President
may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(5) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives.

(6) Definitions.—For purposes of this section—

(1) the term ‘appropriation Act’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

(2) the term ‘direct spending’ shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

(3) the term ‘budget item’ means—

(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

(B) an amount of direct spending;

(4) the term ‘cancellation of a budget item’ means—

(A) the rescission of any budget authority proposed to be canceled between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the motion leader or the leader of his chamber, as the case may be.

(5) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order in either the Senate or the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (A) of paragraph (2) and a motion to strike any proposed cancellation of a budget item), shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the compartment introduced in the Senate under paragraph (1)(A).

(6) Debate in the House of Representatives or the Senate on the conference report on a bill considered under this section shall be in order in either the House or the Senate, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (A) of paragraph (2)), may transmit to Congress a special message containing, including debate pursuant to subparagraph (A) of paragraph (2), an Act or joint resolution making supplemental, deficiency, or continuing appropriations;
Mr. CRAIG. Mr. President, I also wish to speak on S. 14 that has just been introduced by Budget Committee chairman Senator DOMENICI and also Senator EXON and myself. That is a new bill that will create a legislative line-item veto. We believe that is another important issue that the American people have been continually asking for for well over a decade now with calls relating to sections 1012A and 1017.

While I remain a strong cosponsor of S. 4—S. 4 is the pure line-item veto that Senator MCCAIN and Senator COATITTE placed before this Senate a year ago—I also am, in S. 14, offering an additional alternative. Make no confusion by my remarks. I support the pure line-item veto S. 4. I think it is important that we give it a clean opportunity. But if that cannot be accomplished, I think it is important that the Budget Committee recognize, as they have with the introduction of S. 14 by Senator PETE DOMENICI, an alternative piece of legislation of this type similar to that I introduced last year which also clearly allows the President to exercise a line-item veto and the Congress, through a procedure both timely and responsive, to address those items singled out by the President.

These are important issues. It is important to the American people who are watching today the most historic event in 40 years to see a House sworn in, to see a Republican Speaker by the name of NEWT GINGRICH take his seat, or to see 11 new Members, Republican Members, come to the U.S. Senate and see a historic change once again in the leadership of the Senate; for those who observe us to know that we will address the Contract With America, we will address mandates, we will vote on a line-item veto, we will vote on a balanced budget amendment.

That is what the American people have asked for. I believe that is what the 104th Congress will produce for them. That is historic. I think it is clearly important that we now respond to those American people who sent us to this new Congress to address.

In September of last year, I, along with a dozen of our Senate colleagues, introduced a legislative line-item veto as a part of S. 2458, the Common Cents Budget Reform Act of 1994. This year, S. 14 incorporates all the essentials of title III of that legislation and makes improvements in the fine tuning.

This bill is also similar to H.R. 4600 in the 103rd Congress, as it passed the House last June 14, by a vote of 342 to 69, after a work was rejected. I want to acknowledge and commend the thoughtfulness and cooperation of the other original sponsors of S. 14. Also include the Senators from Maine [Mr. COLE] and New Jersey [Mr. BRADLEY], both of whom have had their legislation, and the distinguished majority leader. They, along with the chairman and ranking member [Mr. EXON] of the Budget Committee have worked hard to achieve a meeting of the minds.

As I have noted, I am also an original cosponsor of S. 4.

In brief, S. 4 is an enhanced rescission bill, which would allow a Presidential rescission of spending to stand unless a disapproval of that rescission was enacted into law, presumably over the President's veto, which would require a two-thirds vote.

Under S. 14 which contains an expedited rescission process, a Presidential proposal to cancel budget items—whether they are narrowly targeted tax benefits, or new direct spending—would be given mandatory consideration in Congress, with approval or disapproval by majority vote concluded on an expedited basis.

I prefer the pure approach taken in S. 4. But both versions are second, effective reforms. Both would increase accountability, promote fiscal responsibility, and improve public confidence in the budget process. This Senate is committed, and I call on my colleagues to commit, to passing the strongest legislative line item veto possible. The most effective line item veto is the one that becomes law.

There are three principal reasons for Congress to pass this kind of budget reform:

First, it would promote fiscal responsibility.

According to GAO, since 1974, Presidents have requested 1,093 individual rescissions of appropriations. Congress has approved 354—34.5 percent—of these, amounting to 30 percent of the dollar volume of proposed rescissions.

Excluding 1982, Congress has approved less than 20 percent of the dollar volume of rescissions proposed by Presidents.

Congress has simply ignored $48 billion in rescissions proposed under title X of the 1974 Budget Act, refusing to take a vote on the rescissions.

Alone, a line-item veto is not going to be enough to balance the budget. However, it's routinely estimated that an additional $10 billion a year in discretionary spending could be saved this way. To quote the late Senator Everett Dirksen: “$10 billion here, $10 billion there, pretty soon we're talking about real money.”

On the tax side, public cynicism regarding Congress has grown with increased attention to provisions, hidden away in large tax bills, which benefit narrow interests and special constituencies.

For example, in H.R. 11, passed late in 1992—but vetoed, there were 50 special tax provisions that cost more than the enterprise zones that were supposed to be the centerpiece of the bill.

We've all heard the horror stories about tax breaks that benefit one sports stadium, one wealthy family, one large corporation. Our constituents have heard those stories, too. They're demanding that things change.

Second, it would improve legislative accountability and produce a more thoughtful legislative process.

A line-item veto would cast an additional dose of sunlight on the legislative process.

All too often, large bills include individual items that would never stand up to public scrutiny.

We're all familiar with the rush to get the legislative trains out on time. That means bills and reports spanning hundreds of pages that virtually no one is able to read—in the day or two that they are voted on.

Moreover, any more, virtually every appropriations bill—even the 13 regular bills—and certainly every tax bill, is a huge bill.

Knowing that any individual provision may have to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

Third, it would improve executive accountability.

There is always some concern that any form of line-item veto or expedited rescission process would transfer too much power from the Congress to the President.

But there is another side to that coin. Many of us on both sides of this aisle have suggested, at different times, that Presidents aren't always serious about the rescission messages they send to Congress, or that the volume of rescissions they propose don't live up to their tough talk about what they would do if they had a line-item veto.
I think it's time to call the President's bluff—and I mean every President, because this is a bipartisan issue. Already we are seeing groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items. Once we give the President expedited rescission authority to sign or not sign. She or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

In particular, in S. 4, we give the President the chance to designate how much of his rescissions savings would be applied to the deficit through the use of a lockbox, or deficit reduction account.

Under this expedited rescission procedure, Congress would not lose the power of the purse, but the power of the spotlight would be restored to the President.

In conclusion: I commend to the attention of my colleagues both S. 4 and S. 14, and urge prompt action. This year, I believe, we will enact a line item veto law, and I look forward to this long overdue reform.

By Mr. MOYNIHAN:

S. 15. A bill to provide that professional baseball teams and leagues composed of such teams shall be subject to the antitrust laws; to the Committee on the Judiciary.

NATIONAL PASTIME PRESERVATION ACT

Mr. MOYNIHAN. Mr. President, in his book, "God's Country and Mine," the author Jacques Barzun, a former history professor at Columbia University, wrote "Whoever wants to know the health of a nation, let him count the sports of America had better learn baseball. * * *"

Baseball is America's national pastime. It was invented, at least according to the view espoused by New Yorkers, by General Abner Doubleday in Cooperstown, New York, in 1839. Today it is deeply embedded in our culture. Yet in recent years the game has become troubled. Baseball has had eight work stoppages over the last two decades, more than in all other professional sports combined. The experience of baseball has been with us since August, and no end is in sight. The 1995 season is in grave jeopardy. Indeed, many observers believe the future of baseball itself is in peril.

The current difficulties may be traced back to 1922, when Justice Oliver Wendell Holmes delivered the opinion of the U.S. Supreme Court in Federal Baseball v. National League, 259 U.S. 200. There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 27. (a) IN GENERAL.—Except as provided in Public Law 87-351 (15 U.S.C. 291 et seq.) (commonly known as the "Broadcasting Act of 1961"), the antitrust laws shall apply to the business of organized professional baseball.

"(b) APPLICATION OF SECTION.—This section—

(1) shall apply to any agreement that is in effect on or after the date of enactment of this Act and is prepared to reverse the result of the decisions of the Supreme Court of the United States of the Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs, 259 U.S. 200 (1922), Toolson v. New York Yankees, Inc. v. Kuhn, 346 U.S. 398 (1953), and Flood v. Kuhn, 407 U.S. 258 (1972), which exempted baseball from coverage under the antitrust laws.

SEC. 3. APPLICATION OF ANTITRUST LAWS TO PROFESSIONAL BASEBALL.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) IN GENERAL.—Except as provided in Public Law 87-351 (15 U.S.C. 291 et seq.) (commonly known as the "Broadcasting Act of 1961"), the antitrust laws shall apply to the business of organized professional baseball.

"(b) APPLICATION OF SECTION.—This section—

(1) shall apply to any agreement that is in effect on or after the date of enactment of this Act and is prepared to reverse the result of the decisions of the Supreme Court of the United States of the Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs, 259 U.S. 200 (1922), Toolson v. New York Yankees, Inc. v. Kuhn, 346 U.S. 398 (1953), and Flood v. Kuhn, 407 U.S. 258 (1972), which exempted baseball from coverage under the antitrust laws.

SEC. 3. APPLICATION OF ANTITRUST LAWS TO PROFESSIONAL BASEBALL.

The National Pastime Preservation Act of 1995''.

SEC. 1. SHORT TITLE.

This Act may be cited as the "National Pastime Preservation Act of 1995".
The WTO is an organization which is on trial. I know it is just starting out, just beginning the process of establishing itself. The outcome of that trial will depend on these early actions, on the strict observance by the WTO of its mandate, and in particular on the results of the dispute settlement mechanism.

An effective dispute settlement mechanism was one of the major negotiating objectives for the United States. In the GATT talks, the United States sought to have binding and automatic dispute settlement. Trade disputes could go to international panels, and the defendant would be deprived of any means of blocking the result. The United States supported this idea out of frustration largely with our European friends who maintained agricultural policies that adversely affected every other agricultural exporting nation.

All other nations agreed with our proposal, obviously from a variety of motivations, not always identical with our own. They largely objected to our use of our "unilateral measures," actions which we have taken to defend our national commercial interests against their dumped and subsidized goods, or occasionally using our leverage of access to the world's largest, most open market to pry open the markets of others.

Despite different motivations, for the first time in any international forum, there will be binding dispute settlement. This means that no nation will be able to prevent the result from being accepted by the body of nations in the WTO. The defendant will incur costs of various kinds if it ignores the findings of a dispute settlement panel—costs in terms of international condemnation, in terms of weakening international respect for the trading rules, and in terms of possible internationally sanctioned retaliation against its goods.

This places a heavy burden on the new dispute settlement system, and all who participate in it.

Make no mistake, the future of the World Trading System depends on this new dispute settlement process being used prudently and administered wisely. Those of us who voted for the GATT Agreement knew these risks when we accepted the overall package. There was no option for us, or for any other country, to pick and choose among the parts of the Agreement or to make any modifications.

Therefore, we must do what we can with the Agreement that was negotiated, and make a good faith effort to make it work well, to further international trade and American national commercial interests.

President Clinton assured me in this connection last month as we approached the vote on the GATT Agreement that he and his administration would fully support my effort to ensure that U.S. interests will be protected.

Working with Ambassador Kantor, I developed a proposal, which I am introducing today, that will give the fullest possible protection against abuses by the WTO, and yet allow us to enjoy all of the benefits of the GATT Agreement.

My proposal establishes the WTO Dispute Settlement Review Commission. It will be composed of five Federal appellate judges, appointed by the President in consultation with Congress. The Commission will be empowered to review every adverse decision produced by the WTO dispute settlement process to which the defendant is party. If the defendant requests, the Commission will review every panel decision that is of appeal to the defendant. If the defendant does not appeal, the WTO will make a good faith effort to resolve the dispute.

This places a heavy burden on the WTO itself. I am not making a prediction that such a scenario will occur. I am saying that the knowledge of the existence of a highly competent, impartial Commission of judges in the United States overseeing in detail the operation of these panels will serve as a protection against that outcome. If the dispute settlement process proves tyrannical and abusive rather than fair and impartial, the United States will be well on the road to withdrawal from the WTO.

Mr. President, I ask unanimous consent that the bill and a letter to me from Ambassador Mickey Kantor dated today be inserted in the Record.

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

S. 16

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 "WTO Dispute Settlement Review Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The United States joined the World Trade Organization as a founding member with the goal of creating an improved global trading system.

(2) The American people must receive assurances that United States sovereignty will be protected, and United States interests will be advanced, within the global trading system which the WTO will oversee.

(3) The survival of the new WTO requires the continuation of both trade liberalization and the ability to respond effectively to unfair or otherwise harmful trade practices.

(4) United States support for the WTO depends upon obtaining mutual trade benefits through the openness of foreign markets and the maintenance of effective United States and WTO remedies against unfair or otherwise harmful trade practices.

(5) Congress passed the Uruguay Round Agreements Act based upon its understanding that effective trade remedies would not be eroded. These remedies are essential to continue the process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture particularly through foreign dumped and subsidized.

(6) The continued support of the Congress for the WTO is dependent upon a WTO dispute settlement system that:

(A) operates in a fair and impartial manner;
(B) does not add to the obligations of or diminish the rights of the United States under the Uruguay Round Agreements Act; and
(C) does not exceed its authority, scope, or established standard of review.

(b) PURPOSE.—It is the purpose of this Act to provide for the establishment of the WTO Dispute Settlement Review Commission to achieve the goals described in subsection (a).

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the WTO Dispute Settlement Review Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 5 members all of whom shall be judges of the Federal judicial circuits and shall be appointed by the President, in consultation with the Majority Leader and Minority Leader of the Senate, the chairman and ranking member of the Committee on Ways and Means of the House of Representatives, and the chairman and ranking member of the Committee on Finance of the Senate.

(2) DATE.—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members of the Commission first appointed shall each be appointed for a term of 5 years. After the initial 5-year term, 3 members of the Commission shall be appointed for terms of 3 years and the remaining 2 members shall be appointed for terms of 2 years.

(2) VACANCIES.—Any vacancy shall be filled in the same manner as the original appointment.
SEC. 4. DUTIES OF THE COMMISSION.

(a) PRELIMINARY REVIEW OF WTO Dispute Settlement Reports.—
   (1) IN GENERAL.—The Commission shall review—
      (A) all reports of dispute settlement panels or the Appellate Body of the World Trade Organization in proceedings initiated by other parties to the WTO which are adverse to the United States and which are adopted by the Dispute Settlement Body, and
      (B) upon request of the United States Trade Representative, any other report of a dispute settlement panel or the Appellate Body which is adopted by the Dispute Settlement Body.
   (2) SCOPE OF REVIEW.—In the case of reports described in paragraph (1), the Commission shall conduct a complete review and determine whether—
      (A) the report or the Appellate Body, as the case may be, exceeded its authority or its terms of reference;
      (B) the report or the Appellate Body, as the case may be, was, in its entirety, factually supportable and was not compelled by law to reach such a conclusion;
      (C) the report or the Appellate Body, as the case may be, was not arbitrary or capricious, awarded relief in excess of what was necessary to achieve the purpose of the law;
      (D) the report or the Appellate Body, as the case may be, was, in whole or in part, the result of a violation of applicable Uruguay Round Agreement; and
      (E) the report or the Appellate Body, as the case may be, was, in whole or in part, an affront to the sovereignty, honor, or dignity of the United States;
   (F) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.
   (G) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, and otherwise carry on such business, as it considers advisable.

(b) INFORMATION FROM INTERESTED PARTIES AND REPORTS.—
   (1) NOTICE OF PANEL OR APPELLATE BODY REPORT.—The United States Trade Representative shall advise the Commission no later than 30 days after the date of adoption of a report by the Dispute Settlement Body that the report of a panel or Appellate Body that is adverse to the United States and shall immediately publish notice of such report, along with notice of an opportunity for interested parties to submit comments to the Commission.
   (2) SUBMISSIONS AND REQUESTS FOR INFORMATION.—Any interested party may submit comments to the Commission regarding the panel or Appellate Body report. The Commission may also, upon request from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.
   (3) ACCESS TO PANEL AND APPELLATE BODY DOCUMENTS.—The United States Trade Representative shall make available to the Commission all submissions and relevant documents relating to the panel or Appellate Body report, including any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government.

(c) PROCEDURAL PROVISIONS.—In the case of a joint resolution described in this section and—
   (1) in the case of a joint resolution described in subsection (b)(1) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period following any joint resolution, or section 154(b) of the Trade Act of 1974, beginning on the date on which the Congress receives an affirmative determination from the Commission described in section 3(e)(1) of the Trade Act of 1974, the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement, as defined by that section, the first blank space being filled with the specific rules and procedures with respect to which the President is to undertake negotiations, the second blank space being filled with the date of the affirmative determination submitted to the Congress by the Commission pursuant to section 4(b) which has given rise to the joint resolution, and the third blank space being filled with the date the Congress withdraws its approval of the WTO Agreement.
   (2) IN GENERAL.—If the joint resolution described in subsection (b)(2), the Commission has made 3 affirmative determinations described in section 3(e)(1) of the Trade Act of 1974, and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day determined under section 3(e)(1)(A), of the Trade Act of 1974), beginning on the date on which the Congress receives the first such affirmative determination.
   (3) PRESIDENTIAL VETO.—In any case in which the President vetoes the joint resolution, the requirements of this subsection are met if each House of Congress votes to override that veto on or before the later of the last day of a 60-day period beginning on or after the last day of the date on which the joint resolution was submitted to the Congress, or June 30, 1995.
from further consideration of the joint resolution if it shall be placed on the appropriate calendar.

(C) F I N A N C E A N D W A Y S A N D M E A N S C O M M I T T E E . —I t is not in order for—
(i) the Committee on Finance or the committee of the appropriate House, if that House has previously adopted a joint resolution under this section relating to the same matter, to consider any joint resolution unless it has been reported by the Committee on Finance or the committee of the appropriate House, if that House has previously adopted a joint resolution under this section relating to the same matter.

(D) S P E C I A L R U L E F O R H O U S E . —A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made after the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(2) with the full recognition of the constitutional right of either House to change institutional right of either House to change the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) A C C E S S T O I N F O R M A T I O N . —T h e United States Trade Representative shall promulgate regulations implementing the relevant agency to be consistent with international obligations under the Uruguay Round Agreement (or a nullification or impairment thereof), whether or not there are other elements of the decision which favor arguments made by the United States.

(3) D I S P U T E S E T T L E M E N T P A N E L ; P A N E L . — T h e terms "dispute settlement panel" and "panel" mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(4) D I S P U T E S E T T L E M E N T B O D Y . — T h e term "Dispute Settlement Body" means the Dispute Settlement Body administering the rules and procedures set forth in the Dispute Settlement Understanding.


(6) U R U G U A Y R O U N D A G R E E M E N T . — T h e term "Uruguay Round Agreement" means one or more of the agreements described in section 101(d) of the Uruguay Round Agreements Act.

(7) W O R L D T R A D E O R G A N I Z A T I O N ; W T O . — T h e terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.


Hon. ROBERT DOLE, Senate Majority Leader, U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: Thank you for providing me with advance copies of your bill to establish a commission to review adverse dispute settlement reports of the World Trade Organization (WTO) and to provide for expedited judicial review in the event that the commission makes affirmative determinations under the criteria set out in the bill.

Your bill reflects the basic agreement we reached on those subjects in November. It also adds a new provision regarding participation by private persons in WTO dispute settlement proceedings, which I look forward to reviewing with you.

I hope to have the chance to discuss with you shortly the details of your bill.

Sincerely,

MICHAEL KANTOR.
Also, I hope that we do not occupy the time of the U.S. Senate on the abortion issue. Here again, I personally am very much opposed to abortion, but I believe it is a matter for the individual, again and for families or ministers, priests and rabbis. And I hope that we will spend our time talking to the brave issues, and I think last November's mandate calls upon the Congress to do.

It is my hope, Mr. President, that we will not become embroiled in the gridlock and partisanship which occupied us in the 103d Congress. I think it would be a mistake for those on this side of the aisle, Republicans, to think that the mandate of last November's election was a repudiation of the Congress controlled by the Democrats for what the administration had done. So it is my hope that we will tackle these issues so that we will deal with them in a way which does not get us bogged down in partisanship but looks to the national interests.

When we talk about the agenda, I hope, Mr. President, that we will tackle health care reform quite early. And I think that there are a number of divergent positions regarding health care reform, but a centrist position is one I will urge the Congress to adopt. I will be introducing today a bill designated as Senate bill 18, by prearrangement, which is the same number my health care reform bill had last year. Senate bill 18 preserves the free enterprise entrepreneurial system, which provides the best health care in the world to approximately 85 percent of the American people, and then targets the specific problems to extend coverage to people when they change jobs, to cover pre-existing conditions, when we find in the courts that lawyers spend more time arguing about what is a preexisting condition than it would take the doctors to treat the condition.

We will also deal with the issue of spiraling health care costs, with more managed care. Medicare, for example, where the costs are astronomical and have to be brought under control. And managed care has to be very carefully calibrated so that the care is adequate and with a view to more than a profit motive. A significant proportion of managed care is dealing with low-birthweight babies. They are a human tragedy, weighing no more than a pound, a human about as big as the size of my hand, carrying scars for a lifetime which will cost more than $150,000 per child. Provisions in S. 18 are one way of how we can curtail health care costs.

Mr. President, I intend to introduce today Senate bill 17, a number arrangement with an urban agenda for America's cities, which I will introduce on behalf of Senator Carol Morseley-Braun of Washington, DC, has given up on America's cities, and I think that is a tragedy. We have abandoned the unsuccessfulness and difficulties of throwing money at the problems of cities.

My legislation embodied in the urban agenda for American cities is patterned after proposals suggested by the distinguished mayor of Philadelphia, Edward Rendell, and many of the mayors in America and the National League of Cities. What it intends to do is to provide assistance to the cities, without additional Federal expenditures, by means such as a requirement that Federal procurement be located in the distressed areas of cities, that 15 percent of foreign aid be expended in distressed areas of American cities; that items like the historical tax credit, scaled back in 1986, be restored. It has been a revenue loser for the Federal Government to strike that form of a deduction, which had been tremendously developmental for American cities and had produced a net effect of more money. These items which are encompassed within the legislative proposal by Mayor Rendell and embodied in this bill will do much for America's cities.

I live in one of America's great cities, the city of Philadelphia. My experience goes beyond the big city to my birthplace of Wichita, KS, which is a moderate-size city in America, and to the town where I moved when I was 12, Russell, KS, a city of 5,000. The problems of the cities, Mr. President, are not left for the cities alone, but they travel across America. Today, you may find the gangs of Los Angeles, the Bloods and the Crips, in Des Moines, IA, or in Lancaster, PA. So that in moving to assist the cities, we are moving to assist all of America.

Mr. President, I know my time is short with the period set aside for each Senator being limited to 10 minutes. I thank my colleagues, and the distinguished Senator from West Virginia, for awaiting my presentation.

Mr. President, We convene in legislative session eight weeks after the most extraordinary congressional election in American history. With a voice that was consistent throughout the nation, the American people repudiated the policies of the current Administration and its congressional majorities, and for the first time in four decades gave control of both houses of Congress to Republicans.

The very extraordinariness of the election that has brought us here guarantees that the 104th Congress that we begin today will be historically memorable. We have it in our power now, and as we work together over the next two years, to determine whether this Congress will be remembered as the moment when a new majority and new legislative leadership sparked a new American Renaissance of growth, prosperity and accomplishment—or as the moment when Republicans showed that they were no more capable or governing than Democrats.

The 103d Congress just concluded will find its own way into the history books, and I do not believe their references will be complimentary. The legislative accomplishments of the last two years were meager, as we failed to do anything to expand access to health care; as we failed to enact meaningful Congressional reform or curb the influence of lobbyists; as we failed in our effort for campaign finance reform; and as we consigned our children to more years of deficit and more mountains of debt by failing to adopt a balanced budget amendment to the Constitution.

Only in the area of international trade, with most Republicans joining some Democrats to support the NAFTA and GATT agreements—agreements worked out under both Republican and Democratic administrations—was there real legislative cooperation to promote the best interests of the nation.

We also passed a Crime Bill that, while not perfect, should help to make America safer by providing more police, building more prisons, expanding the federal death penalty, and reducing violence against women—but we did so in such a spirit of legislative acrimony that the means by which the debate nearly overswept the bill's value as an anticrime measure.

In fact, it may be that the spirit more than the substance of the 103d Congress is what endures. If so, it will not be a pleasant recollection. In my 14 years in this body, I do not recall a session when party and partisanship, rather than honest debate on the merits of the issues, played so large a role in determining what legislation would be considered, or when, or how it would be voted upon.

Take the issue of health care. Faced only with the alternatives of the massive bureaucratic and government regulation proposed by the Clinton administration, on the one hand, and the determination of some in my own caucus to do nothing, on the other, we accomplished nothing. That failure was almost entirely a failure of process—begun by the administration, which excluded Congressional Republicans from the formulation of its health care proposals; and compounded by some in the Republican caucus who decided that it was more important to deny the President whatever credit there might be in a health care bill because it offered a solution to the problems of those Americans who lacked coverage, or were not getting care. The enormous miscalculation of the Democratic congressional leadership in refusing even to bring up health care Reform, as we failed to enact meaningful Congressional reform or curb the influence of lobbyists; as we failed in our effort for campaign finance reform; and as we consigned our children to more years of deficit and more mountains of debt by failing to adopt a balanced budget amendment to the Constitution. The failures of the 103d Congress
health care bill in the last Congress—a bill that solved the problems of portability, of pre-existing conditions and other impediments to health insurance access, while at the same time maintaining the private market and patient-physician choice system that has given the best health care in the world to 80%. What we needed, but did not have, was an open process of bipartisan consideration and debate, where the needs of working Americans were considered ahead of tactical maneuverings for the next election.

For my part, I have been pushing for wise health care reform since my first term in the Senate, when I sponsored the “Health Care Cost Containment Act” of 1983. In the 102d and 103d congressional sessions, I made repeated attempts to bring the health care issue to the floor in a setting where the issue could receive full and fair consideration. My attempts were, unfortunately, blocked by the Democratic leadership. What we got, instead, were partisan efforts to pass the so-called Clinton health care bill, bills drafted without Republican participation, and bills which relied on massive federal bureaucracy rather than free market forces to produce health care reform.

Regrettably, the very process of health care reform turned the issue into a matter of partisanship. The Administration’s health care task force met in secret, illegally as it turns out, and made no effort to reach out to Republican Senators with a demonstrated commitment to health care reform to create a broad base of Congressional support that crossed party lines. Similarly, the Democratic leadership in both houses made no effort to build bipartisan support, believing instead that they could pass a bill by legislative hardball.

The result, not surprisingly, was a bad bill—a bill based on more Big Government and social engineering; a bill that undercut the longstanding determination that healthy choices should be made by patients and their physicians and not faceless bureaucrats; a bill that in the name of reform threatened to raise premiums and reduce choice for working Americans; a bill that, once it was understood, had no chance of passage.

The result of this partisan hubris, unfortunately, was also to preclude those Republicans and Democrats who were interested in forging a compromise on health care from having the opportunity to do so. The American people would have welcomed a health care reform package that relied on market mechanisms to expand coverage and control costs, but the social engineers of the Democratic left demanded a bill that put America’s whole health care system under the thumb of more than 150 federal agencies, while the naysayers of the Republican right were only too happy to use the Democrats’ excess as an excuse to do nothing.

The 103d Congress is likely to be remembered more than anything else as the Congress of gridlock—and not just for its failure to enact health care reform. Senators of both parties were more willing than ever to invoke pointless procedural rules, like requiring bills to be read in full, to keep the Senate from passing and then adjourning. The results were short tempers and frayed nerves—and an erosion of some of the sense of collegiality that ought to have allowed us to cross boundaries of partisanship and ideology in search of compromise and in service of the people’s best interests.

Obstructionism found its practitioners on both sides of the aisle; it was the delaying tactics of a Democratic chairman that forced us to return for a special post-election session to take up the GATT issue. The inability of Democrats in the Senate to reach agreement with their own colleagues in the House prevented campaign finance reform from coming to the Senate floor until the final days of the session, when it had no chance for passage.

The record of the 103d Congress is one we would do well not to replicate.

THE 104TH CONGRESS: A NEW SPIRIT OF BIPARTISANSHIP?

Fiorello La Guardia, a great Republican Mayor of New York, once observed that “There is no Democratic or Republican way of cleaning the streets.” La Guardia did not mean that there were not differences, longstanding and important, between the two major American parties, but rather that sometimes those differences need to be overcome in doing the work of governing. I agree, and I share Woodrow Wilson’s wish, expressed while he was a candidate for President, that “party battles could be fought with less personal passion and more passion for the common good.” I urge in the strongest terms that the spirit of putting the common good ahead of party advantage be the spirit of the 104th Congress.

In a spirit of accommodation, I urge my colleagues across the aisle to recognize in the results of the last election the people’s rejection of high taxes, big government and bureaucracy—and the people’s rejection of an entrenched and tired Congressional leadership. But in that same spirit, I urge my colleagues on this side of the aisle not to misread the results of the last election as a mandate for uncaring or do nothing government, or a government that turns its back on people’s problems—because if we do, our majorities will be short lived.

I urge all my colleagues in this body, Scoop Jackson, observed, “to define democracy in one word, we must use the word cooperation.” It is in that spirit that the 104th Congress does no better, we must use the word cooperation. Sometimes, as one of the giants of this body, Fiorello La Guardia, a great Republican Mayor of New York, once observed, “[t]he best politics is no politics.”

A spirit of bipartisanship that in critical moments puts the national interest above party has always been part of the American grain. In his Farewell Address, Washington warned that “[t]he alternate domination of one party and the other * * * is a manifest despotism.” At the close of his life, Jefferson wrote that a democratic government, like ours, demands much compromise of opinion; that things of a salutary character should not be sharpened by the spirit of revenge natural of party dissension * * * is itself a frightful despotism.

In more recent years, a great American who was to be elected President as a Democrat, John F. Kennedy, spoke out while a Senator to remind us “not to seek the Republican answer or the Democratic answer, but the right answer.” One great American who was to be elected President as a Republican, Dwight Eisenhower, said that “[t]o define democracy in one word, we must use the word cooperation.”

Even in the bitter 103d Congress, we did have moments where we could lay partisanship aside and cooperate in seeking “right answers” for the American people. I have already mentioned NAFTA and GATT. President Clinton had the full backing of Congressional Republicans for his prompt response to last fall’s provocative Israeli troop movements, just as many Democrats had supported President Bush’s liberation of Kuwait. So we know that today legislative bipartisanship is not an impossibility.

I respectfully suggest to my colleagues that bipartisanship and cooperation are now not only possibilities, they are imperatives. In the last Congress, we too often did our legislative business with our eyes fixed on the next calendar year and the next election, concerned with polls and “spin” and “fallout”—with getting credit and placing blame—than with meeting the needs of the nation. The voters responded by repudiating the Congressional majority with unprecedented unanimity. So if the 104th Congress does no better, we should not be surprised if the people render the same verdict on its new Congressional majority.

As World War I ended, and controversy swirled over whether America would continue to play a role in maintaining a peaceful world, President Wilson asked Americans “What difference does party make when mankind is involved?” Today, when our schools do not educate; when violent crime continues to spread; when our welfare system works more as a trap of dependency than a door to opportunity; when our cities decay as
jobs flee and their tax bases erode; when our prosperity at home and our competitiveness abroad are held back by a government that overspends, overtaxes and overregulates—Today, we ought to ask what difference does party make when the future of the nation is at stake?

America's needs are real enough. Let us spend the next 5 years addressing them without rancor or bitterness, looking on both sides of the aisles for honest answers and constructive solutions. Let us not waste time worrying about who will get the “credit” for our successes, because in that divisive struggle for power that will all be held accountable for our failures.

A FRAMEWORK FOR MEETING THE NEEDS OF THE NATION

I believe that the Congressional session we begin today has the potential for historic greatness. The work that the Republican leaders in both houses have already done, to reduce the size of Congress and budgets and to open up the legislative process, represents an excellent beginning. The fact that even before our session has begun, the President and Congressional leaders are engaged in a dialog over how best to cut spending and provide tax relief to middle class Americans is a welcome sign.

The prospects are excellent in the coming Congress for real health care reform targeted at problems and not at supplanting the system; for welfare reform to end dependency and reduce irresponsibility among pregnant women; for measures to lower the deficit and cut federal spending, including a balanced budget amendment to the constitution; for tax reforms that provide relief to working Americans while promoting growth and prosperity; and for a key step in the fight against violent crime by ending the absurd federal court delays in carrying out death sentences.

The prospects for these accomplishments, and more, are there. But to attain them, we must avoid the pitfalls of the past. We must refuse to let the present government, however, do nothing—shielded by an incremental process of trial and modification, which respects the free enterprise system and preserves patient-physician choice.

I will offer a revised comprehensive health care bill to solve targeted problems by an incremental process of trial and modification, which respects the free enterprise system and preserves patient-physician choice.

I will offer a revised Urban Agenda Bill, aimed at directing existing federal spending into the historically tax credit, and otherwise promoting urban revitalization and job creation without new federal outlays, programs or taxes.

I will offer legislation to further charter schools and the private management concept, in an effort to use market competition, and not bureaucrats, to spearhead a drive for educational excellence—while at the same time preserving and strengthening our public school systems.

I will offer legislation to make our tax code more growth oriented, including capital gains tax relief to encourage investment, expanded IRA deductions to provide for educational and medical expenses, and reinitiation of selected tax credits, such as those for research and development, to promote business expansion and job creation.

In combating the nation’s number one domestic issue I will offer legislation to end the absurd federal court delays in carrying out the death sentences handed down in state courts, which will help reinvigorate the deterrent aspect of our criminal law.

I will exercise the line-item veto under existing constitutional law.

And in my role as Chairman of the Senate Intelligence Committee, I will offer legislation to restructure our intelligence agencies to make the CIA more open to public scrutiny and more responsive to our national needs in the post-Cold War world.

For my part, I look forward to constructive work with all my colleagues in this chamber and at the White House. The extraordinary election that has brought us here has focused extraordinary attention upon us. I believe that if we are big enough to lay partisanship aside, to identify the issues honestly and work constructively to seek solutions that are neither Republican nor Democratic but right, this can be a Congress of extraordinary accomplishment.

Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our Nation’s cities and Washington’s increasing neglect of them. We have an opportunity to correct that and this legislation, which I introduced in the 103d Congress along with my distinguished colleague, Senator Carol Moseley-Braun, is an effort to give our cities some much-needed attention and to do so without massive infusions of cash.

If we are to really address the very serious issues that we face—jobs, teenage pregnancy, welfare reform, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America.

The days of “Great Society” Federal aid type programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problem of the cities. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

Urban areas remain integral to America’s greatness, as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our Nation’s neediest and most disadvantaged, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

I commend the Mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America’s cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed the “New Urban Agenda.” Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have firsthand knowledge of the growing problems that plague our cities. I have
long supported a variety of programs to assist our cities such as funding for community development block grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994 I took the opportunity to host my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who want to obtain work, but have found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city jobs has had on our neighborhoods in America's cities.

What my Republican colleagues saw then in Philadelphia was the rule across our country and not the exception. There are many who do not know of city life, who are far removed from the cities and would not be expected to have any kept interest in what goes on in the big cities of America.

I cite my own boyhood experience illustratively: Born in Wichita, KS, raised in Russell, a small town of 5,000 people, I was alien to people in much of America. But there is a growing understanding that the small towns are very much affected by the problems of the big cities.

What are the problems? Crime for one. Take the Bloods and the Crips gangs from Los Angeles, CA, and similar gangs; they are all over America. They are in Lancaster, PA, in Des Moines, IA, Portland, OR, in Jackson, MS, Racine, WI, and Martinsburg, WV. They are literally everywhere, big city and small city alike.

In addition, according to the National League of Cities 1992 report, "State of America's Cities," 397 randomly selected municipal leaders said that after overall economic conditions, crime was second and education was third items that had caused their cities to deteriorate the most in the prior 5 years. In Atlanta, the number of crime per 100,000 people was 18,953, making it number one in 1991. We have all heard of that unenviable moniker for our Nation's capital—the "murder capital." And from an employer's perspective, Mr. Scott Zelov, president of VIZ Manufacturing located in the Germantown section of Philadelphia, told my staff that his workers can't even walk to work in safety anymore.

Joblessness and a less skilled work force is another problem. At the end of the 103rd Congress, I asked my staff to meet with various urban leaders and business people during the recess in order to help us understand and develop ideas to meet the needs of urban America. One of the most important issues that business people—minority and nonminority alike—told my staff about was the need for greater incentives to help people work and find jobs to meet their skills.

I have advocated legislation in the last two Congresses to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, for instance, have told me and my staff they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My "Minority and Women Capital Formation Act" would help remove the capital access barriers that are frustrating the ability of these entrepreneurs to grow their businesses and employee base.

Municipal leaders are stressing many of the same concerns that business people are voicing. In a July 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to shortage of jobs and below-poverty wages, for poverty and joblessness in their respective cities. 81 percent of those who responded to the survey, that more jobs must be created through local economic development initiatives.

This "skills deficit" is highlighted in an urban revitalization plan prepared for the City of Kansas City. In a story also called "Playing to Win: A Marshall Plan for America's Cities." The report cites a statistic by the Commission on Achieving Necessary Skills which showed that 60 percent of all 21 to 25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today's jobs.

The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled "City Fiscal Conditions in 1994," municipal officials from 551 cities answered questions on the economic state of their cities. For instance, 17.4 percent reported that they had to make their 1994 expenditures to exceed 1994 revenues. Seventy percent had to raise taxes or user fees during the past 12 months. Just over half of these cities, 54.4 percent, said they were better able to meet their cities' financial needs in 1994 as compared to 1993.

These numbers are of concern to me and I believe they highlight the need for Federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it often counteracts municipal efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the property tax. Using the rationale of their respective tax base, evidenced particularly by middle-class flight to the suburbs, Mr. Ronald Walters, professor of political science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent.

In an October 9, 1994, article in the Washington Post magazine, David Finkel profiled ward 7 of Washington, DC, and wrote that ward 7 lost 13,000 residents between 1990 and 1993. He noted further that the population decline in Washington, DC, has averaged 10,000 people a year since 1990. These losses are devastating, not only to the financial stability of the city, but to the social fabric of the city.

On the financial side, statistics show that these people were earning an average of $30,000 and $75,000 a year. On the social side, roughly half of these are African-American middle-class families. By losing this critical demographic group, the city loses much of what makes it strong.

Eroding tax bases are also evidenced by job-flight and job loss. Professor Walters testified that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1992; Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to census data, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March 1994 USA Today magazine article, since the 1970's more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

Pittsburgh, according to the same data, had only 8.5 percent of its population in manufacturing jobs. I received a letter dated October 31, 1994, from Pittsburgh City Councilman Bob O'Connor in response to a letter I sent him on October 5th regarding legislative issues in the 104th Congress. In his response, Councilman O'Connor simply says: "we need jobs, jobs, jobs!" I ask unanimous consent that a copy of Councilman O'Connor's letter be printed in the Record at the end of my statement.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 census data, Washington, DC ranked first out of 77 cities for infant death rates per 1,000 live births in 1988. Detroit led the same number of cities in the percentage of one-parent households in 1990 at 53 percent. According to 1990 US News and World Report, I saw 1-pound babies for the first time and I learned that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16 ounces and attend pre-school last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.
Indeed, our cities are desperate, and the issues are heavy.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. As I have noted, however, over the past several decades, America’s cities have struggled with the loss of residents, businesses, and industry and other problems. The resulting tax base shrinkage causes enormous budget problems for city government. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain face with problems ranging from increased tax burdens and lesser services therefor to dwindling economic opportunities leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The Federal Government has attempted to revitalize our ailing urban infrastructure by providing Federal funding for transit and sewer systems, roads and bridges. I have supported this. These provisions have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged populations access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the Nation’s deficit and debt. Therefore, we must find alternatives to reinvigorate our Nation’s cities so that they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. Mayor Rendell has come forward with a legislative package which contains many good ideas. First, recognizing that the Federal Government is the Nation’s largest purchaser of goods and services, this legislation would require that no less than 15 percent of Federal Government purchases be made from businesses and industries within designated urban empowerment zones and enterprise communities. Similarly, it would require that no less than 15 percent of foreign aid funds be redeemed through purchase of products manufactured in urban empowerment zones and enterprise communities. I presented this idea to then-Treasury Secretary Bent sen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded favorably. As a procurement center for foreign aid, would be a natural complement to our status as the Business Capital of the Americas. Miami has a wide range of businesses, particularly high technology firms and medical equipment manufacturers that would benefit from this provision.

By letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote:

Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same.

I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the Record at the end of my statement.

To further enhance job opportunities within our urban centers, this legislation contains Mayor Rendell’s recommendation that the manufacturing extension centers be located in the urban areas. As high-technology firms do not require new expenditures of Federal funds. Instead, these proposals would require that a minimum amount of existing government procurement and foreign aid moneys be used to spur economic activity within urban areas.

The second major provision of this bill would commit the Federal Government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of Federal facilities in urban areas. To accomplish this, all Federal agencies would be required to prepare and submit to the President an urban impact statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a Federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand Federal tax breaks that were restricted or abolished in the Tax Reform Act of 1986. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects.

According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985. In 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986 to 1989, only 11 of the 27 projects in Philadelphia were permitted. The total number of city-supported projects in Philadelphia was reduced by more than half.

Another tool is to expand the authorization of commercial industrial development bonds. The Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986 to 1989, only 11 of the 27 projects in Philadelphia were permitted. The total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector, and industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption—which means a way to help finance private activity in the building of manufacturing facilities—from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the Federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the Federal government any arbitrage—a fancy financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

A fourth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation provides language to study a so-called Streamlining Federal Housing Program assistance to urban areas into “block grant” form so that municipal agencies can better serve local residents. The bill would improve the circumstances of public housing tenants by encouraging the location of newly built units on the site of demolished housing and allowing the original residents to

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move into the new units. This provision will contribute to community stability and promote urban renewal.

Last year, the development of urban areas can be accelerated by easing certain environmental restrictions on urban land known as “brown fields.” My legislative provides a “governmental exception” which will encourage the redevelopment of contaminated industrial sites by cities without assuming liability as “potentially responsible parties” under Superfund laws. While the cities would not be added as liable parties, liability would remain with others responsible under existing law. Increasingly, certain parcels of urban land that pose a very low environmental threat are left unused. If proper remediation occurs, they would be reused. This measure also contains a provision for a pilot power-plant designed to burn solid waste and create inexpensive energy for energy intensive industries. Such a plant will create jobs and help provide a solution for cities to deal with their treatment of waste.

In the previous Congress, the New Urban Agenda Act, S. 2585, contained a section that would eliminate unfunded Federal mandates. I was a cosponsor of legislation in the 103d Congress, S. 993, introduced by my distinguished colleague from Idaho, Senator KEMPTHORNE, which would eliminate unfunded Federal mandates. The language of S. 993 was written into this legislation when I introduced it in the 103d Congress. I have chosen to omit that provision from this bill because we will soon vote on free-standing unfunded Federal mandates legislation in this Congress.

However, I want to mention some facts regarding how cities are adversely affected by unfunded mandates and how important it is that we enact such legislation promptly. In Senator KEMPTHORNE’s home State of Idaho, the city of Boise had to cover over $3 million for eight mandates in fiscal year 1993, according to a report done by the accounting firm of Price Waterhouse for the United States Conference of Mayors. I am informed that six Pennsylvania cities—Allentown, Altoona, Philadelphia, Pittsburgh, Wilkes-Barre, and York—faced 10 unfunded Federal mandates that cost them a collective total of $17 million for fiscal year 1993.

All over the country the story is the same. In California, 54 cities had to cover a grand total of $983.3 million in unfunded Federal mandates, with Los Angeles paying almost $82 million, according to the report done for the Conference of Mayors. In Texas, 27 cities had to cover $316 million in unfunded mandates, with Houston covering $154 million. New York had nine cities working to find $517 million and New York City was $475 million of that total. In fiscal year 1994, 72 cities faced a total of $988 million, with Chicago comprising $70 million of that number.

Cities are facing incredible financial burdens from unfunded Federal mandates—totaling almost $50 million—taking much needed funds from infrastructure projects, an overburdened criminal justice system, and priorities of the cities. Phoenix has had to raise consumer’s sewage and water rates to cover $36 million in unfunded Federal mandates, along with curtailing almost all of the city’s service departments. The release from Federal mandates would allow Houston to allocate $354 million more for the maintenance of city property and public safety. The U.S. Conference of Mayors report presents similar facts on 314 cities. In addition, the National League of Cities report on city fiscal conditions in 1994 claims that unfunded Federal mandates was the second most important factor as a negative impact on city budgets. It is critical that as legislators we financially back the laws we write, otherwise provide the appropriate assistance so that municipalities can comply.

Mr. President, it may well be that America has given up on its cities. That is a stark statement, but it is one I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so.

As one of a handful of U.S. Senators who lives in a big city, I have seen firsthand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to America. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

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

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

S. 17

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 “New Urban Agenda Act of 1995”.

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

Sec. 1. Definitions;
Sec. 2. Findings and purposes;
Sec. 101. Federal Purchases from Businesses in Empowerment Zones, Enterprise Communities, and Enterprise Zones;
Sec. 101. Federal Purchases from Businesses in Empowerment Zones, Enterprise Communities, and Enterprise Zones;
Sec. 101. Minimum allocation of foreign assistance for purchase of certain United States goods;
Sec. 101. Preference for construction and improvement of Federal facilities to be used by related principal users;
Sec. 104. Preference for construction and improvement of Federal facilities to be used by related principal users;
Sec. 105. Definitions.

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

Sec. 201. Treatment of rehabilitation credit under passive activity limitations;
Sec. 202. Rehabilitation credit allowed to offset portion of alternative minimum tax;
Sec. 203. Commercial industrial development bonds;
Sec. 204. Increase in amount of qualified small issue bonds permitted for facilities to be used by related principal users;
Sec. 205. Simplification of arbitrage interest rebate waiver.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

Sec. 301. Block grant study;
Sec. 302. Demolition and disposition of public housing.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Subtitle A—Environmental Cleanup

Sec. 401. Exemption from liability for local governments that are owners or operators of facilities in distressed urban areas;
Sec. 402. Standards for remediation in distressed urban areas;
Sec. 403. Environmental-Economic Recovery

Sec. 411. Findings;
Sec. 412. Definitions;
Sec. 413. Loan authority;
Sec. 414. Facility;
Sec. 415. Reinvestment of savings;
Sec. 416. Report to Congress.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) provide a new approach to help such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“Purchases from businesses in empowerment zones, enterprise communities, and enterprise zones.

“Sec. 29. (a) Minimum Purchase Requirement.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or enterprise zones.

“Sec. 29. (b) Recycled Procurement.—To the maximum extent practicable consistent with applicable law, the head of an executive agency
shall purchase recycled products that meet the needs of the executive agency or business located in empowerment zones, enterprise communities, or enterprise zones.

(c) Regulations.—The Federal Acquisition Regulation shall apply with respect to fiscal years beginning after the date of the enactment of this Act and shall apply with respect to such facilities.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) Preference.—Notwithstanding any other provision of law, in determining the location to which to relocate functions of a department or agency, the head of the department or agency making the determination shall take affirmative action to construct or improve the facility, or to relocate the functions, in a distressed urban area.

(b) Urban Impact Statement.—A determination to construct a new facility of a department or agency shall be made only upon the head of the department or agency making the determination and submitted to the President a report that—

(I) in the case of a facility to be constructed—

(A) identifies at least one distressed urban area that is an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and utilization of the facility in the area, including the effects of such construction and utilization on the rate of unemployment in the area; and

(C) describes the condition of the area.

In the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative to the additional provision of such services in the area;

(C) describes the condition of such area of the closure or consolidation, if any, of Federal facilities located in such area of the closure or consolidation, including the total number of Federal and non-Federal employment positions eliminated in such area as a result of such closure or consolidation; and

(D) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation.

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative to the additional provision of such services in the area;

(C) describes the condition of such area of the closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation; and

(D) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation.

(3) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative to the additional provision of such services in the area; and

(C) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation.

(4) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative to the additional provision of such services in the area; and

(C) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area as a result of such closure or consolidation.

(2) DOLLAR LIMITATIONS.

(I) $55,500 LIMIT FOR REHABILITATION CREDIT.—In the case of a facility to be improved that is not located in a distressed urban area, the rehabilitation credit determined under section 42 of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) shall not exceed $50,000 reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

(II) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the passive activity credit for any taxable year attributable to the rehabilitation credit determined under section 42—

(i)(i) subparagraph (A) shall not apply, and

(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

(ii)(i) $25,000, reduced by

(ii)(ii) the aggregate amount of the passive activity credit for any taxable year attributable to the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 42.

(II)(II) $55,500 LIMIT FOR REHABILITATION CREDITS.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 42—

(i) subparagraph (A) shall not apply, and

(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

(ii)(i) $55,500, reduced by

(ii)(ii) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies.
for the taxable year after the application of subparagraph (A) and (B).

(3) Adjusted gross income.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

(A) any amount includable in gross income under section 66,

(B) any amount excludable from gross income under section 72,

(C) any amount allocable as a deduction under section 219, and

(D) any passive activity loss.

(2) Conforming Amendments.—

(a) Subparagraph (B) of section 469(1)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

``(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amounts under paragraph (1)(A) and (B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount the decedent is entitled to under subparagraph (A) of section 222 in respect of the taxable year ending after the application of paragraph (1) (determined without regard to the adjustment contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.''

(b) Subparagraph (A) of section 469(1)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

``(i) $12,500' for `$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

``(ii) $50,000' for `$100,000' in paragraph (2)(A)',

and

``(iii) $27,750' for `$55,500' in paragraph (2)(C)''.

(c) The subsection heading for subsection (i) of section 469 of such Code is amended by striking "$25,000.''

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) Facility Bonds.—

(1) In General.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (13), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

``(13) sports facilities,

``(14) convention or trade show facilities,

``(15) freestanding parking facilities,

``(16) air or water pollution control facilities,

``(17) industrial parks.''

(b) Industrial Parks Defined.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

``(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

``(1) is—

``(A) land, and

``(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

``(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).''

(c) Effective Date.—The amendments made by this section shall apply to obligations issued on or after the date of the enactment of this Act, in taxable years ending on or after such date.

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) In General.—Section 36(c) of the Internal Revenue Code of 1986 (relating to limitation on deduction for rehabilitation investment credit) is amended by striking the first sentence and substituting the following:

``(c) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—

``(1) IN GENERAL.—Section 46 of such Code (relating to limitations on deduction for rehabilitation credit) is amended by striking paragraph (4) and inserting the following:

``(4) TO THE EXTENT OF ALTERNATIVE MINIMUM TAX.—

``(A) the $25,000 amounts under paragraph (1) (determined without regard to the adjustment contained in paragraph (2))(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending after the application of paragraph (1) (determined without regard to the adjustment contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate;'';

``(B) any amount allocable as a deduction under section 219, and

``(C) any amount the decedent is entitled to under subsection (a) of section 222 in respect of the taxable year ending after the application of paragraph (1) (determined without regard to the adjustment contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.''

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) In General.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to certain limits on facilities that may be financed with small issue bonds) is amended by striking "$10,000,000" and inserting "$50,000,000".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act and (2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) In General.—(1) Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exemption from rebate for certain proceeds to be used to finance construction expenditures) is amended by striking "$10,000,000" and inserting "$50,000,000".

(2) Subclause (B) of section 148(f)(4)(C)(iv) of such Code (relating to available construction proceeds) is amended by striking "2-year period" and inserting "3-year period".

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) In General.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(1) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(A) provides assistance on an annual basis;

(B) maximizes funding certainty and flexibility; and

(C) minimizes paperwork and delay; and

(2) the possibilities of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such block grant system.

(b) Report to Comptroller General.—Not later than 18 months after the date of
that includes—

(1) the results of the study conducted under paragraph (a); and
(2) any recommendations for legislation.

(c) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and
(2) any recommendations for legislation.

SEC. 302. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b(p)(3)) is amended—

(1) in subparagraph (G), by striking “and” at the end; and
(2) by adding at the end the following new subparagraph:

“(i) provides, subject to the approval of both the unit of general local government in which the property on which the units to be demolished and disposed of are located and the local public housing agency, for—

(ii) the eventual reconstruction of units on the same property on which the units to be demolished and disposed of are located;

(iii) the ultimate relocation of displaced tenants to that property.”

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Subtitle A—Environmental Cleanup

SEC. 401. EXEMPTION FROM LIABILITY FOR LOCAL GOVERNMENTS THAT ARE OWNERS OR OPERATORS OF FACILITIES IN DISTRESSED URBAN AREAS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended—

(1) in paragraph (28), by adding at the end the following:

“(E) EXCLUSION OF DISTRESSED URBAN AREAS.—The term ‘distressed urban area’ has the meaning given the term in section 101(d).

(2) by adding at the end the following:

“(i) purchased property, in the distressed urban area described in paragraph (2).

(2) DEMOLITION AND DISPOSITION OF PROPERTIES.

SEC. 410. DEMOLITION AND DISPOSITION OF PROPERTIES.

(a) DEMOLITION.—The President shall, by regulation establish standards for the degree of cleanup described in paragraph (2), for such a facility. In establishing the standards, the President shall take into consideration the results of the study described in paragraph (2).

Subtitle B—Environmental-Economic Recovery

SEC. 411. FINDINGS.

Congress finds that—

(1) plants such as the SEMASS plant in Rochester, Massachusetts, and the Wheelabrator plant in Baltimore, Maryland, provide a market for energy intensive industries to convert and dispose of hazardous waste; and

(2) the availability of such plants in a community will attract energy intensive industries to the community, increasing the tax base and strengthening the economy of the community.

SEC. 412. DEFINITIONS.

As used in this subtitle:

(1) DISTRESSED URBAN AREA.—The term ‘distressed urban area’ has the meaning given the term in section 101(d).

(2) IN GENERAL.—Subject to paragraphs (2), (3), and (4), and notwithstanding any other provision of this Act, the President shall by regulation establish standards for the degree of cleanup of hazardous substances, pollutants or other hazardous materials determined by averaging the percentage of value added, as determined by the Secretary.

(3) FULLY OPERATIONAL.—The term ‘fully operational’ means an industry that consumes more than 25,000 BTUs per dollar of value added, as determined by the Secretary.

(4) MARKET RATE.—The term ‘market rate’ means the relative rate for net bulk power sales made by the electric utility within the service territory concerned.

(5) SECRETARY.—The term ‘Secretary’ means the Secretary of the Department of Energy.

(6) SOLID WASTE.—The term ‘solid waste’ has the meaning given the term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6904(27)).

SEC. 413. LOAN AUTHORITY.

(a) LOANS.—

(1) IN GENERAL.—The Secretary shall make loans to units of local government for distressed urban areas for the establishment of facilities described in section 414.

(2) PRIORITY.—In making one of the loans, the Secretary shall give priority to a unit of local government that demonstrates that the unit of local government will establish the facility through a contract or agreement with an organization that has demonstrated an ability to oversee and manage the creation of a comprehensive, national, strategic, energy intensive, environmental industry initiative.

(b) AUTHORITY TO BORROW.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), and notwithstanding any other provision of law, the Secretary may borrow funds under paragraph (1) if the Secretary determines that the Secretary is necessary to make loans under this section.

(2) AMOUNTS.—The Secretary may borrow funds under paragraph (1) if the Secretary determines that the Secretary is necessary to make loans under this section.

(3) TERMS.—Subject to paragraph (4), the Secretary may make additional loans similar to the loans authorized by this subtitle.

(4) INTEREST.—The rate of interest to be charged in connection with a loan made under this subsection may be established by the Secretary and the Secretary of the Treasury.

SEC. 414. FACILITY.

Each facility referred to in section 413—

(1) shall produce electric power, or steam, from solid waste;

(2) shall have 2 boilers and be capable of expansion;

(3) may provide electricity to energy intensive industry customers at no more than 40 percent of the market rate for electricity or steam;

(4) may provide electricity to public entities or light industry, but not to residential consumers; and

(5) shall obtain a continuing supply of feedstock sufficient to sustain maximum operational capability through long-term contracts with municipal and other governmental sources.

SEC. 415. REINVESTMENT OF SAVINGS.

(a) IN GENERAL.—Any energy intensive industry customer obtaining electricity or steam from the facility described in section 414 shall—

(1) invest in equipment, physical plant, or increased employment at least 7 percent of the saving gained by such customer; and

(2) from the saving gained by such customer, make payments to the Secretary, in an amount determined by the Secretary, to be appropriate, to assist in repaying the funds borrowed by the Secretary under section 413 and the costs associated with borrowing the funds.

(b) DEFINITIONS.—As used in this section, the term ‘saving’, used with respect to a customer obtaining electricity or steam from a facility described in section 414, means an amount equal to—

(1) the cost of obtaining an amount of such electricity or steam from other sources during a period of time; and

(2) the cost of obtaining the same amount of such electricity or steam from the facility during such period.

SEC. 416. REPORT TO CONGRESS.

(a) REPORT.—Not later than 1 year after the facilities described in section 414 become fully operational, the Secretary shall submit a report containing a recommendation concerning whether the Federal Government should make additional loans similar to the loans authorized by this subtitle.

(b) ANALYSIS.—Such recommendation shall be based on analysis of the Secretary concerning whether the loans made under this subtitle have resulted in—

(1) the creation of jobs in the communities in which the facilities are located due to the relocation of energy intensive industry; and

(2) the effective disposal of solid waste; and
DEAR SENATOR SPECTER:

This is to acknowledge your letter of October 5th, soliciting my input on your legislative agenda in the U.S. Senate.

As you know, the City of Pittsburgh and Southwestern Pennsylvania have been declared economically beginning in the 1970's and especially in the early 1980's. We have seen our principal manufacturing base literally disappear, our population decline, and lost corporate leadership due to buyouts and consolidations.

Your questions all can be answered with one response—we need jobs, jobs, jobs! And, these jobs have to fill the full spectrum of employment opportunities from high tech to low tech.

We have planted seeds for growth here in Pittsburgh which will hopefully fuel our local economy. Those “seeds” include robotics, high speed rail, motion pictures, tourism, exporting and computer software.

The federal government can foster the development of these and other industries in the region by directing contracts and research to this area which will enhance employment opportunities.

If we don’t meet the challenge of job creation in this region then we have no choice but to increase spending on social welfare programs.

I wish you well in your efforts to bring employment opportunities to Pittsburgh. Your efforts on our behalf are greatly appreciated.

Sincerely,

BOB O’CONNOR,
Councilman.

U.S. SENATE,
Washington, DC,

Hon. ARLEN SPECTER,
Mayor, City of Pittsburgh,
PA.

DEAR MAYOR CLARK:

I was interested to read in the Philadelphia Daily News of your interest in requiring some amount of foreign aid to be issued in vouchers “redeemable only in distressed cities.” I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Miami could be useful in extending foreign aid, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202-224-9016) of my staff with any information that could be useful in this endeavor.

My best.

Sincerely,

ARLEN SPECTER,
Mayor.

CITY OF MIAMI, FL
Miami, FL.
July 8, 1994.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER:

On behalf of the City of Miami, thank you for including our community in your and Mayor Rendell’s proposal to require some amount of foreign aid to be issued in vouchers, which can be redeemed in distressed cities throughout the country. The initiative set forth in Mayor Rendell’s New Urban Agenda, will benefit Greater Miami/Dade County, should our application for Empowerment Zone or Enterprise Zone funding be successful. Miami’s selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

My staff and The Beacon Council, Greater Miami/Dade County’s economic development organization, have been working for the past several months with Doug Troutman of your staff to determine which business activities and services in Miami could be useful in extending foreign aid assistance. Toward this end, Mr. Troutman has been extremely helpful in providing further background information to assist our efforts. We look forward to working with you and your staff further on this important issue.

On behalf of our community, thank you for including Miami in this significant project.

Sincerely,

STEPHEN P. CLARK,
Mayor.

OFFICE OF THE MAYOR
THE CITY OF HARRISBURG
HARRISBURG, PA.
April 6, 1994.

Hon. ARLEN SPECTER,
U.S. Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge and thank you for your correspondence, which I was pleased to receive on April 4, 1994, regarding the suggestion by the Mayor of Philadelphia that a portion of foreign aid be issued in the form of vouchers that would be redeemable only in distressed cities.

The concept has considerable merit and we would support such a voucher provision having a measurable and nearly immediate impact in urban communities would be for a proper and clearly stated definition of the words “distressed cities.” At a minimum, such a definition should stipulate that eligible cities would be those with 15% or more of its households living at or below the Federal poverty income level.

I suspect that most cities would be able to benefit by such a voucher program. It would redirect investment, development and employment forces into such cities. Before foreign aid vouchers would represent a far less speculative venture and, in some cases, a literally guaranteed opportunity.

In the case of the City of Harrisburg, there are few areas of products and services which could not be provided. Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. Our infrastructure is sufficient to also accommodate additional growth of export and new businesses and industries.

Therefore, in brief, we believe the voucher proposal has considerable merit and that this City would benefit from the same.

I appreciate your attention to this matter and the opportunity to express an opinion on the subject.

With warmest personal regards, I am yours sincerely,

STEPHEN R. REED,
Mayor.
managed care, in my judgment no amount of congressional talk will fix many of the problems that still exist—for instance, the pre-existing condition problem, where people are denied health care insurance because of a pre-existing health problem; or the portability problem, where people lose their insurance based on employment and lose their health coverage; or the self-employed problem, where self-employed individuals are denied the right to deduct as a business expense their health care costs unlike other employers who may deduct 100 percent of that business expense. The problem of employees in small businesses not having health coverage because their employer simply cannot afford to provide it.

The recent November elections reaffirmed the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government. Consistent with this principle, Congress should enact health care reform legislation that focuses on these and other problems in the health care system in an expeditious way. As many of my colleagues will recall, in 1990 the Congress passed Clean Air Act amendments that many said were not doable. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment, and retained jobs. This can be done with health care reform. If we force on the areas both Democrats and Republicans agree upon—insurance market reforms, full-deductibility for the self-employed, administrative simplification, a few—we can accomplish a lot in addressing problems with our current health care system.

I have been advocating reform in one form or another throughout my now 15 years in the Senate. My strong interest in health care dates back to my first years in the Senate. My strong interest in health care remains a very complex issue for Congress to address. But it is not so complex that we cannot act now to make health care more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. The amendment was defeated on a procedural motion by a vote of 35 to 60 along party lines.

The substance of that amendment, however, was adopted later by the Senate as part of broader tax legislation on September 23, 1992 when it was included in an amendment to H.R. 11 introduced by Senators Bentsen and Durenberger and which I cosponsored. This latter amendment, which included substantially the same self-employed deductibility and small group reforms that I had proposed on July 29, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference. On January 23, 1994, when Senator Mitchell was asked on the television program “Face The Nation” to respond to Bentsen’s bill and a Senate amendment from 1992, he stated that President Bush vetoed that provision as part of a broader bill. In fact, the legislation sent to President Bush never included that provision.

On August 12, 1992, I introduced legislation entitled the “Health Care Affordability and Quality Improvement Act of 1992,” S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, lowered the cost of health care through use of the most appropriate provider, and improves the quality of health care.

On January 21, 1993, the first day of the 103d Congress, I introduced comprehensive legislation, entitled the “Comprehensive Health Care Act of 1993,” S. 18. This legislation was comprised of reform initiatives that our health care system could adopt immediately. They were reforms which both improved access and affordability of insurance coverage and implemented systemic changes to bring down the escalating cost of care in this country. S. 18, which is the principal basis of the legislation I am introducing today, melded the two health care reform bills that I introduced and the legislation introduced in the 102d Congress and built upon with significant additions.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and MCCAIN, as well as my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a critical mass as a starting point. On April 28, 1993, I proposed this bill as an amendment to then pending S. 171, the Department of Environment Act in an attempt to urge the Senate to act on health care reform.

In total, I have taken to this floor on 13 occasions over the past 3 years to urge the Senate to address health care reform. On two occasions I introduced health care related amendments.

As early as June 26, 1984, I stated that the issue of health care is one of the most important matters facing the Nation today. That statement continues to ring true today, 10 years later. As reported in the New York Times on December 29, 1993, the Commerce Department estimated that health spending would total $942.5 billion in 1994 and would rise 12.5 percent in 1995. Moreover, there are an estimated 40 million, or 15 percent of the American population without health insurance.

Not long ago, Mr. President, in June 1993, I had my own health problem when a magnetic resonance imaging machine discovered an intercranial lesion in my head. I was the beneficiary of the greatest health care delivery system in the world. That experience made me ever more aware, knowledgeable, and concerned about the subject than I had been in the past.

I share the American people’s frustration with government and their desire to have the problems addressed. This past November they made it abundantly clear that they want the problems fixed—be it health care, welfare, tax or spending reform. But I want to make clear, Mr. President, since it has been said from time to time that Republicans support only the status quo, that many of my Republican colleagues have shared my sentiment to pass health care legislation, and we continue to be committed to action. In the 102d Congress, for instance, Senate Republicans were instrumental in the passage of reforms that would have significantly increased and self-employed individuals to afford coverage more easily. In the 103d Congress, Senate Republicans introduced numerous health care bills that did not go to the
floor. And now I am introducing legislation that targets many of the problems and will result in affordable coverage for millions of the uninsured.

From last year’s debate, I believe we learned a great deal about our health care system and what the American people are willing to accept from the Federal Government. The message I heard loud and clear was that Congress was acting too hastily, and that Americans did not want a massive overhaul of the health care system. Instead, we concluded that Congress should proceed more slowly and to target what isn’t working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I was willing to cooperate with President Clinton in solving the problems facing the country. However, there were many important areas where I differed with the President’s approach and I did so because I believed that was what the American people want.

Most importantly, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On the health care issue, I first became concerned about the bureaucracy that was going up in September 1993 after reading the President’s 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or expanded responsibilities. When the President’s 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This continues to be my major concern.

The 6 titles of the bill seek to reduce the health care costs and the concerns regarding security for the 220 million, or 85 percent of Americans now covered, and to increase coverage for the other 39.7 million, or 15 percent of Americans who are not.

Title I would implement health insurance reforms which include: extending full deductibility of health insurance premiums to the self-employed; establishing small employer and individual insurance plans; obligating employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meets a standard minimum benefit package; improving health insurance market practices to guarantee coverage of pre-existing conditions; and extending COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

While it is not possible to predict with certainty how many additional Americans will be covered as a result of the reforms in Title I, a reasonable expectation would be that the reforms included in this legislation will cover approximately 21 million Americans. This estimate encompasses the provisions included in Title I which I discuss in further detail below.

Title I seeks to make insurance affordable by reducing premium costs of insurance and choice to cover persons who are uninsured for brief periods between jobs. The reason that we often hear varying statistics cited regarding the number of uninsured persons is because a number of the uninsured are without insurance for limited periods during which they are gainfully employed.

This estimate encompasses the provisions included in Title I which I discuss in further detail below.

In addressing our health care problems, let me be clear: In creating solutions it is imperative that we do so without adversely affecting the many positive aspects of our health care system which works for 85 percent of all Americans. I believe our approach should be to focus on affordable coverage for all Americans; to reduce the health care costs for all Americans; (3) to increase the security of coverage and the portability of health insurance between jobs; and (4) to improve coverage for uninsured individuals and families. This legislation is comprised of initiatives that our health care system can readily adopt in order to meet these objectives, and it does not create an enormous new bureaucracy to meet them.

This bill builds and improves upon provisions put forth in my legislation from last year’s debate, S. 191, which included: full deductibility of health care costs for the self-employed; purchasing groups and insurance market reforms for small employers to have access to affordable health insurance; increased availability of insurance to people who change jobs; and improving access to prenatal care and out-of-pouch care for the uninsured. I believe our approach should be to focus on affordable coverage for all Americans; to reduce the health care costs for all Americans; (3) to increase the security of coverage and the portability of health insurance between jobs; and (4) to improve coverage for uninsured individuals and families.

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The 6 titles of the bill seek to reduce the health care costs and the concerns regarding security for the 220 million, or 85 percent of Americans now covered, and to increase coverage for the other 39.7 million, or 15 percent of Americans who are not.
existing conditions, including hereditary conditions and pregnancy; (2) extending COBRA health benefits option from 18 to 24 months and enhancing coverage options under COBRA to make insurance more affordable; and (3) providing individuals access to affordable insurance through purchasing groups.

Coverage of pre-existing conditions is a concern of many people with insurance who face the potential threat of losing their coverage if they or a family member becomes ill. I believe that these reforms could result in too much litigation and too much money being spent on lawyers rather than providing coverage for such persons. According to the Employee Benefit Research Institute, of the 5.9 million workers American who are denied coverage through their employers’ health plan, 100,000 workers are ineligible for insurance because of pre-existing health conditions. Under my bill, no one will be denied reasonably priced covered health care due to a pre-existing condition.

Title I also extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Omnibus Budget Reconciliation Act (OBRA ‘85) to allow employees who lose their job, either through a lay-off of choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductible of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103rd Congress by Senator Phil Gramm and will provide an extra cushion of coverage options for people in transition. According to Senator Gramm, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet reasonable actuarially standards with respect to benefits. Such benefits must include a variation of benefits permitted among actuarily equivalent plans to be developed by the National Association of Insurance Commissioners. The standard plan would consist of the following services when medically necessary or appropriate: (1) medical and surgical devices; (2) medical equipment; (3) preventive services; (4) emergency care and hospitalization in frontier areas. It is estimated that for businesses with fewer than 50 employees, voluntary purchasing cooperatives such as those included in my legislation could cover up to 17 million people who are currently uninsured.

My bill would also create individual health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today’s market, such individuals often face a market where coverage options are not affordable. These groups will change that by allowing small businesses and individuals to buy coverage by pooling together within purchasing groups, and choose from among insurance plans that provide comprehensive benefits with guaranteed enrollment and renewability, and equal pricing through community rating adjusted by age and family size. Community rating will assure that no one small business or individual will be singly priced out of being able to buy comprehensive health coverage because of health status. With community rating, a small group of individuals and businesses can join together, spread the risk, and have the same purchasing power that larger companies have.

For example, Pennsylvania has the fourth lowest rate of uninsured in the nation with over 90 percent of all Pennsylvanians enrolled in some form of health coverage. Lewin and Associates, a national research and consulting firm, is incorporating from legislation introduced in the 103rd Congress by Senator Phil Gramm and will provide an extra cushion of coverage options for people in transition. According to Senator Gramm, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

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Beyond the human tragedy of low birth weight there are the financial consequences. Low birth weight children, those who weigh less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, re-hospitalization and special services up to age 35. The short and long-term costs of caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in the United States. In addition, more than $1 billion has been spent on an equivalent number of babies born of normal birth weight averting, or more frequent prenatal care, the U.S. health care system saves between $14,000 and $30,000 in the first year in addition to the projected savings in lifetime care.

The Department of Health and Human Services estimated that by reducing the number of children born of low birth weight by 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

We know that in most instances prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight is often the result of a genetic link, is associated with inadequate prenatal care or lack of prenatal care.

To improve pregnancy outcomes for women at risk of low birth weight, Title II authorizes the Secretary of Health and Human Services to award grants to States for projects to reduce infant mortality and low birth weight births and to improve the health and well-being of mothers and their families, pregnant women and infants. The funds would be awarded to community-based consortia, made up of State and local governments, the private sector, religious groups, community and migrant health centers, and hospitals and local school school schools, whose goal would be to develop and coordinate effective health care and social support services for women and their babies.

The second initiative under Title II involves the provision of comprehensive health education for our nation’s children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nourishment among students is a serious problem. Another study released in 1991 by the Children’s Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle, this nation must invest in proven preventive health measures. My proposal for per-legislation includes comprehensive health education and prevention initiatives through increased support to local educational agencies to develop and strengthen comprehensive health education programs and to Head Start, local educational agencies to develop and strengthen comprehensive health education programs and to Head Start, food and nutrition programs and 4-H programs. This legislation also includes initiatives to strengthen: the Medicare Select program, which allows Medicare recipients to select managed care plans, specifically through preferred provider organizations, for their Medicare supplemental insurance. Fifteen States have demonstrated program and over 400,000 Medicare beneficiaries are enrolled in the program. Medicare Select plans are 10 to 30 percent less expensive than traditional plans that offer the same benefits and quality is not sacrificed. The August 1994 Consumer Reports rated Medicare Select plans as some of the best Medigap products nationwide. Of the top 15 Medigap rated policies, 8 were Medicare Select plans.

While savings from such reforms are difficult to predict, I believe that savings of billions over 5 years can be achieved through the reforms set forth in this legislation.

While examining the issues that contribute to our health care crisis, I was struck by the fact that so much attention is being focused on treating the symptoms and so little on some of the root causes. Granted, our existing health care system suffers from very serious structural problems. But there also are some common sense steps we can take to head off problems before they reach crisis proportions. Title II of my bill includes three initiatives which enhance primary and preventive care services aimed at preventing disease and ill-health.

Each year about 7 percent, or 287,000, of the nation’s African American babies born in the United States are born of low birth weight, multiplying their risk of death and disability. Nearly 37,000 of those born die before their first birthday. Approximately 1,000 of those deaths are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies still are born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality, put it this way, “If we are to head off problems before they reach crisis proportions, we will have to make some significant changes in the health care system that are exacerbat-

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime.” I was astounded that to see that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.
only 8 to 15 percent of adults have prepared a living will. Provisions in my bill would provide information on individuals’ rights regarding living wills and advanced directives and would make it clearer for people to have their rights known and honored.

Title IV provides incentives to improve the quality of generally physicians and would increase the utilization of non-physician providers like nurse practitioners, clinical nurse specialists and physician assistants through direct reimbursement under the Medicare and Medicaid programs. These provisions I believe will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected a 10 to 15 percent savings for all medical costs—or $300 million to $450 million. While our system is dramatically different from Canada’s, it may not be unreasonable to project a 5 percent—or $41.5 billion—savings from the increase in the number of primary care providers in our system. I have also experienced an ability to raise or lower this projection. Assuming this savings, though, it seems reasonable, based on an average expenditure for health care of $3,299 per person in 1993, that we could cover over 10 million uninsured persons.

Outcomes research is another area where we can achieve considerable health care savings in the long run and improve the quality of care. According to the former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. If the implementation of medical practice guidelines eliminates 10 to 20 percent of these costs, savings between $8 billion and $16 billion can be realized annually. To achieve this we must, as Dr. C. Everett Koop, former Surgeon General of the United States says, have a well-funded program for outcomes research.

Title V authorizes the Secretary of Health and Human Services to award grants to States to establish or improve a health care data information system. Currently, there are 39 States that have a mandate to establish such a system, and 20 States are in various stages of implementation. In my own State, the Pennsylvania Health Care Cost Containment Council has received national recognition for the work it has done in providing important information regarding health care costs and quality. Consumers, businesses, labor, insurance companies, health maintenance organizations, and hospitals have utilized this information. For example, the information provided by the Pennsylvania’s Cost Containment Council to become more competitive in the marketplace; businesses and labor have used this data to lower their health care expenditures; and health plans have used this information when contracting with providers, and consumers have used this information to compare costs and outcomes of health care providers and procedures.

States have not yet produced any figures on statewide savings as a result of implementing health information systems, however, there are many examples of savings from users of these systems all across the country. In Pennsylvania, for example, Accutrex, a mid-size company that is part of an alliance of businesses in southwest Pennsylvania, reported a savings of $1 million over a 6-month period by using information produced by the Pennsylvania Cost Containment Council.

Title VI addresses the issue of home nursing care. The costs of such care to those requiring it are exorbitant. Title VI proposes, among other things, a tax credit for premiums paid to purchase private long-term care insurance and tax deductions to offset long-term care expenses and proposes home care plans. There are three less costly alternatives to institutional care. The Joint Tax Committee estimates that the cost to the Treasury of this proposal is approximately $20 billion. Other tax incentives and reforms to make long term care insurance more affordable are: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding life insurance savings used to pay for long term care from income tax; (3) extending the tax deductibility of health insurance cost to the former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. If the implementation of medical practice guidelines eliminates 10 to 20 percent of these costs, savings between $8 billion and $16 billion can be realized annually. To achieve this we must, as Dr. C. Everett Koop, former Surgeon General of the United States says, have a well-funded program for outcomes research.

The bill I propose last year to accomplish this. I am confident that we must not scrap, but build on our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed last year to accomplish this. I believe we can provide care for the millions of people who are now covered and reduce health care costs for those who are covered within the currently growing $884.2 billion in health spending.

With the savings projected in this bill, I believe it is possible to provide access to comprehensive affordable health care for all Americans. I am opposed to rationing health care. I do not want rationing for me, myself, for my family, or for America. The question is whether we have essential resources—doctors and other health care providers, hospitals, pharmaceutical products, et cetera—to provide medical care for all Americans. I am confident that we can provide this care.

I am confident that we can provide this care.
I ask unanimous consent that a summary and the full text of the bill be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 18

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 “Health Care Assurance Act of 1995”.

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

Sec. 1. Short title; table of contents.
Sec. 100. Definitions.

Sec. 101. Enforcement by excise tax on qualified associations.

SUBTITLE A—Definitions

Sec. 102. Reauthorization of certain programs providing primary and preventive care.

PART 1—REFORM OF HEALTH INSURANCE MARKETPLACE FOR SMALL EMPLOYERS

Sec. 103. Effective dates.

Sec. 111. Requirement for insurers to offer qualified health insurance plans.

Sec. 112. Adjustment of equivalence in benefits permitted.

Sec. 113. Establishment of health insurance plan standards.

SUBPART A—ADDITIONAL STANDARDS FOR HEALTH INSURANCE PLANS OFFERED TO SMALL EMPLOYERS

Sec. 114. General issuance requirements.

Sec. 115. Rating limitations for community-rated market.

Sec. 116. Rating practices and payment of premiums.

SUBPART B—SMALL EMPLOYER PURCHASING GROUPS

Sec. 117. Qualified small employer purchasing groups.

Sec. 118. Agreements with small employers.

Sec. 119. Enrolling eligible employees, eligible individuals, and certain uninsured individuals in qualified health insurance plans.

Sec. 120. Receipt of premiums.

Sec. 121. Marketing activities.

Sec. 122. General issuance requirements.

Sec. 123. Rating practices and payment of premiums.

PART 2—STANDARDS APPLICABLE TO ALL HEALTH INSURANCE PLANS

Sec. 124. Compliance with applicable requirements through multiple employer health arrangements.

Sec. 125. Enforcement by excise tax on small employer plans.

SUBTITLE B—ADMINISTRATIVE MARKET REFORM

Sec. 126. Definitions.

Sec. 127. Compliance with applicable requirements through multiple employer health arrangements.

Sec. 128. Enforcement by excise tax on small employer plans.

PART 3—ENFORCEMENT

Sec. 129. Enforcement by excise tax on qualified associations.

SUBTITLE B—SCARY MARKETPLACE FOR SMALL EMPLOYERS

Sec. 130. Requiring small employers to offer coverage for eligible individuals.

Sec. 131. Qualified small employer purchasing groups established by a State.

Sec. 132. Agreement with small employers.

Sec. 133. Enrolling eligible employees, eligible individuals, and certain uninsured individuals in qualified health insurance plans.

Sec. 134. Receipt of premiums.

Sec. 135. Marketing activities.

Sec. 136. Compliance with applicable requirements through multiple employer health arrangements.

Sec. 137. Enforcement by excise tax on small employer plans.

PART 4—EFFECTIVE DATES

Sec. 138. Qualified association plan defined.

Sec. 139. Definitions and special rules.

Sec. 140. Plan information.

Sec. 141. Enforcement.

Sec. 142. Effective dates.

SUBTITLE C—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES AND DEPENDENTS OF EMPLOYER HEALTH ARRANGEMENTS

Sec. 143. Compliance with applicable requirements through multiple employer health arrangements.

Sec. 144. Enforcement by excise tax on small employer plans.

SUBTITLE D—REQUIRED COVERAGE OPTIONS FOR INDIVIDUALS INSURED THROUGH ASSOCIATION PLANS

Sec. 145. Treatment of qualified association plans.

Sec. 146. Exclusion from gross income for amounts received on cancellation of life insurance policies and used for qualified long-term care insurance policies.

Sec. 147. Use of gain from sale of principal residence for purchase of qualified long-term care health insurance.

TITLE I—HEALTH CARE INSURANCE COVERAGE

SUBTITLE A—Definitions

Sec. 148. Definitions.

Sec. 149. Exceptions where defined terms are not used.

Sec. 150. Enforcement by excise tax on qualified associations.

TITLE II—PRIMARY AND PREVENTIVE HEALTH SERVICES

Sec. 151. Enforcement by excise tax on qualified associations.

Sec. 152. Reauthorization of certain programs providing primary and preventive health services.

Sec. 153. Comprehensive school health education program.

Sec. 154. Comprehensive early childhood development program.

TITLE III—PATIENTS’ RIGHT TO DECLINE MEDICAL TREATMENT

Sec. 155. Patient’s right to decline medical treatment.

TITLE IV—PRIMARY AND PREVENTIVE CARE PROVIDERS

Sec. 156. Expanded coverage of certain nonphysician providers under the medicare program.

Sec. 157. Medical student tutorial program grants.

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TITLE V—COST CONTAINMENT

Sec. 159. New drug clinical trials program.

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TITLE VI—LONG-TERM CARE

Sec. 163. Tax treatment of qualified long-term care insurance policies and plans.

Sec. 164. Amendment of 1986 Code.

Sec. 165. Qualified long-term care insurance policy.

Sec. 166. Definition of qualified long-term care insurance policy.

Sec. 167. Treatment of qualified long-term care insurance as accident and health insurance for purposes of taxation of insurance companies.

Sec. 168. Treatment of accelerated death benefits under life insurance policies.

Sec. 169. Tax incentives for purchase of qualified long-term care insurance.

Sec. 170. Credit for qualified long-term care premium.

Sec. 171. Exclusion from gross income of benefits received under qualified long-term care insurance policies.

Sec. 172. Employer deduction for contributions made for long-term care insurance.

Sec. 173. Inclusion of qualified long-term care insurance in cafeteria plans.

SEC. 100. DEFINITIONS.

For purposes of this title:

(1) DEPENDENT.—The term “dependent” means, with respect to any individual, any person who is—

(A) the spouse or surviving spouse of the individual; or

(B) under regulations of the Secretary, a child (including an adopted child) of such individual and—

(i) under 19 years of age; or

(ii) under 25 years of age and a full-time student.

(2) ELIGIBLE EMPLOYEE.—The term “eligible employee” means, with respect to an employer, an employee who normally performs services on a monthly basis at least 30 hours of service per week for that employer.

(3) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means, with respect to an employer, an employee, and any dependents of such employee.

(4) EMPLOYER.—The term “employer” shall have the meaning given such term in section 3(5) of the Employee Retirement Income Security Act of 1974.

(5) GROUP HEALTH PLAN.—The term “group health plan” means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise, but does not include any type of coverage excluded from the definition of a health insurance plan under paragraph (6)(B).

(6) HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “health insurance plan” means any hospital or medical service policy or certificate, hospital, or medical service plan contract, or health maintenance organization group contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following:

(i) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof,

(ii) Medicare supplemental health insurance,

(iii) Coverage issued as a supplement to liability insurance,

(iv) Worker’s compensation or similar insurance,

(v) Automobile medical-payment insurance,

(vi) Any combination of the insurance described in clauses (i) through (v).

(7) HEALTH MAINTENANCE ORGANIZATION.—

The term “health maintenance organization” includes an organization recognized under State law as a health maintenance organization or managed care organization or a similar organization regulated under State law for solvency that offers to provide health services on a prepaid, at-risk basis primarily through a defined set of providers.

(8) INSURER.—The term “insurer” means any person that offers a health insurance plan including—

(A) a licensed insurance company;

(B) a prepaid hospital or medical service plan;

(C) a health maintenance organization;
(1) R OLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a set of rules which the NAIC determines to be necessary for determining, in the case of any health insurance plan and for purposes of this section, the actuarial value of the coverage offered by the plan.

(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this subsection. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall establish such a set of rules that meets such requirements.

(a) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a set of rules that the NAIC determines to be necessary for determining, in the case of any health insurance plan and for purposes of this section, the actuarial value of the coverage offered by the plan.

(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this subsection. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall establish such a set of rules that meets such requirements.

(b) STANDARD COVERAGE.—

(1) IN GENERAL.—A health insurance plan is considered to provide standard coverage consistent with this subsection if the benefits provided under the plan are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

(a) IN GENERAL.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a target actuarial value for standard coverage that is equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this Act or through regulations.

(b) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A) and certifies such value for use under this subsection, the Secretary shall determine a target actuarial value that meets such requirements.

(c) SUBSEQUENT REVISIONS.—

(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that such rules are necessary for taking into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The Secretary shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

(2) SECRETARY.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

SEC. 113. ESTABLISHMENT OF HEALTH INSURANCE PLAN STANDARDS.

(a) ESTABLISHMENT OF GENERAL STANDARDS.—

(1) ROLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this Act, model regulations that specify standards with respect to the requirements, under section 111(a), that insurers make available qualified health insurance plans and that the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review such standards within 60 days after the date the regulations are developed. Unless the Secretary determines within such period that the standards do not meet the requirement under section 111(a), such standards shall serve as the standards under this section and any such amendments as the Secretary deems necessary.

(2) CONTINGENCY.—If the NAIC does not develop such model regulations within the period prescribed in paragraph (1), the Secretary determines that such regulations do not specify standards that meet the requirement under section 111(a), the Secretary shall, within 180 days after the date of the enactment of this Act, carry out such regulations.

(3) EFFECTIVE DATE.—The standards specified in the model regulations shall apply to health insurance plans in a State on or after the 60th day after the date the standards are implemented in the State under subsection (b).

(b) EXCEPTION FOR LEGISLATION.—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 insurers and qualified health insurance plans offered to meet the standards established under subsection (a), but

(ii) having a legislation which is not scheduled to meet in 1997 in a legislative session in which legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year during such session shall be deemed to be a separate regular session of the State legislature.

(c) FEDERAL ROLE.—If the Secretary determines that a State has failed to submit a report by the deadline specified under paragraph (1) or finds that the State has not implemented and provided adequate enforcement of the standards in the model regulations, the Secretary shall notify the State and provide the State a period of 60 days in which to submit the report or to implement and enforce the standards. If, after that 60-day period, the Secretary finds that the failure has not been corrected, the Secretary shall provide for the implementation and enforcement of the standards in the State in such a way as the Secretary determines to be appropriate. Such implementation and enforcement shall take effect with respect to insurers and qualified health insurance plans offered or renewed on or after 3 months after the date of the Secretary’s finding under the previous sentence and until the date the Secretary finds that such a failure has been corrected.
Subpart B—Additional Standards for Health Insurance Plans Offered to Small Employers

SEC. 121. GENERAL ISSUANCE REQUIREMENTS.

(a) GENERAL RULE.—Any insurer offering a health insurance plan to a small employer shall meet the following requirements:

(1) A guaranteed issue requirements of subsection (b).

(2) The mandatory registration and disclosure requirements of subsection (c).

(b) REGISTRATION AND DISCLOSURE REQUIREMENTS.—(1) IN GENERAL.—The requirements of this subsection are met if the insurer offering a health insurance plan to a small employer

(A) accepts every small employer in the State that applies for coverage under the plan; and

(B) accepts for enrollment under the plan every eligible individual who applies for enrollment on a timely basis (consistent with paragraph (3)).

(2) SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.—In the case of a plan offered by a health maintenance organization, the plan may—

(A) limit the employers that may apply for coverage to those with eligible individuals residing in the service area of the plan; and

(B) accept for enrollment any additional individuals who may be enrolled under the plan to those who reside in the service area of the plan; and

(c)ertime period that coverage under a health insurance plan is considered to be timely in the case of an eligible individual not to be time-

(i) enrollment is made either—

(I) before the effective date of the employment contract; or

(II) within 30 days of the date family coverage is first made available.

(ii) COVERAGE.—If a plan makes family coverage available, and enrollment is made under the plan on a timely basis under clause (i)(II), the coverage shall become effective not later than the first day of the month beginning after the date of the marriage or the date of birth or adoption of the child (as the case may be).

(4) FINANCIAL CAPACITY EXCEPTION.—Paragraph (3) shall not require any insurer to issue a health insurance plan to the extent that the issuance of such plan would result in such insurer violating the financial solvency standards (if any) established by the State in which such plan is to be issued.

(5) DELIVERY CAPACITY EXCEPTION.—(A) IN GENERAL.—Paragraph (1) shall not prohibit an insurer from enrolling under a health insurance plan if—

(i) the insurer ceases to enroll any new small employers under the plan; and

(ii) the insurer can demonstrate to the Secretary that its provider capacity to serve previously covered groups or individuals (and additional individuals who will be expected to enroll because of affiliation with such previously covered groups or individuals) will be impaired if it is required to enroll other small employers.

(B) FIRST-COME-FIRST-SERVED.—An insurer is only eligible to exercise the exceptions provided for in subparagraph (A) if such insurer provides for enrollment on a first-come-first-served basis (except in the case of additional individuals described in subparagraph (A)(ii)).

(6) ADDITIONAL EXCEPTIONS.—Paragraph (1) shall not apply to a failure to issue a health insurance plan to a small employer if—

(A) such employer is unable to pay the premium for such contract; or

(B) the insurer can demonstrate to the Secretary responsible for regulation of health insurance plans that coverage under the plan would be offered in a portion of an interstate market.

(ii) the age adjustment factor (specified in subparagraph (B)); and

(iii) the geographic area adjustments (if any) established by the State in which the plan is to be offered.

(3) ELIGIBLE INDIVIDUALS.—For purposes of this section, the term “eligible individuals” includes certain uninsured individuals (as described in section 133).

(b) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each health insurance plan shall be uniform for small employers, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group (established under subpart C), through a small employer, or through a broker.

(2) APPLICATION TO ENROLLEES.—(A) IN GENERAL.—The premium charged for coverage in a health insurance plan which covers eligible employees and eligible individuals shall be the premium payable by—

(i) the standard premium (established under paragraph (1));

(ii) the age adjustment factor specified under subparagraph (B); and

(iii) the geographic factor specified under subparagraph (C).

(B) FAMILY ADJUSTMENT FACTOR.—(i) IN GENERAL.—The standards established under section 112 shall specify family adjustment factors that reflect the relative actual costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

(ii) MODELS.—Not later than 120 days after the date of the enactment of this Act, the NAIC shall develop several models for reinsur-

(iii) CLASSES OF ENROLLMENT.—For purposes of this Act, there are 4 classes of enrollment:

(iv) one of such models, as approved by the Secretary.

(c) PROGRAM REQUIREMENTS.—(1) IN GENERAL.—Not later than January 1, 1995, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

(B) A VAILABLE TO GENERAL ISSUE INSURERS.—For purposes of subparagraph (A), a State—

(i) mode

(ii) a qualified State-run reinsurance program, including options for program funding.

(c) MANDATORY REGISTRATION REQUIREMENTS.—The requirements of this subsection are met if the insurer offering a health insurance plan to a small employer in any State registers with the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance.

SEC. 122. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

(a) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED ELIGIBLE EMPLOYEES AND ELIGIBLE INDIVIDUALS.—(1) IN GENERAL.—Each health insurance plan offered to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 112b).

(2) ESTABLISHMENT OF COMMUNITY RATING AREA.—(A) IN GENERAL.—Not later than January 1, 1995, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

(B) A VAILABLE TO GENERAL ISSUE INSURERS.—For purposes of subparagraph (A), a State—

(i) mode

(ii) a qualified State-run reinsurance program, including options for program funding.

(c) PROGRAM REQUIREMENTS.—(1) IN GENERAL.—Not later than January 1, 1995, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

(B) A VAILABLE TO GENERAL ISSUE INSURERS.—For purposes of subparagraph (A), a State—

(i) mode

(ii) a qualified State-run reinsurance program, including options for program funding.
(II) Coverage of a married couple without children referred to in this Act as the "married couple class of enrollment".

(ii) COUPLE.—The term "couple class of enrollment" refers to enrollment in a class of enrollment described in clause (II) of paragraph (ii) of subsection (a).

(III) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this subtitle:

(i) FAMILY.—The terms "family enrollment" or "family" refer to enrollment in a class of enrollment described in any subclause of clause (i) (other than subclause (I)).

(ii) COUPLE.—The term "couple" means an individual and the individual's spouse.

(2) NOTICE ON EXPIRATION.—An insurer shall provide notice of the terms for renewal of a health insurance plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

(3) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the appropriate certificate of registration statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the insurer.

(A) The examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such insurer and of the methods used by the insurer in establishing premium rates and administrative charges for health insurance plans—

(A) such insurer is in compliance with the applicable provisions of this Act;

(B) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

(b) PAYMENT OF PREMIUMS.—

(1) IN GENERAL.—With respect to a new enrollee in a health insurance plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

(2) NOTIFICATION OF FAILURE TO RECEIVE PREMIUM.—If a health insurance plan fails to receive a premium due with respect to an eligible employee or eligible individual covered under the plan, the plan shall provide notice of such failure to the employee or individual within 20 days after the date on which such premium payment was due. A plan may not terminate the enrollment of an employee or eligible individual unless such employer or individual has been notified of any overdue premiums and has provided a reasonable opportunity to respond to such notice.

Subpart C—Small Employer Purchasing Groups

SEC. 131. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUPS DESCRIBED.—

(1) IN GENERAL.—A qualified small employer purchasing group is an entity that—

(A) is a nonprofit entity certified under State law;

(B) has a membership consisting solely of small employers;

(C) is organized solely under the authority and control of its member employers;

(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as being appropriate for such a group;

(E) offers a program under which qualified health insurance plans are offered to eligible individuals; and

(F) is not the employer of the employee covered under the plan.

(2) VOTING.—Members of a qualified small employer purchasing group shall have equal voting rights on all issues.

(3) SPREADS.—The term "spreads" means, with respect to a group, the premium paid by an employer or individual and the premium paid by the employer or individual as a member of the group.

(4) IN GENERAL.—The group shall—

(A) provide notice of the terms for renewal of a health insurance plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan;

(B) perform other activities identified by the group that are necessary or appropriate to the performance of its duties under this Act;

(C) meet the marketing requirements under section 132;

(D) meet the administrative requirements under section 132;

(E) meet the marketing requirements under section 132; and

(F) meet the administrative requirements under section 132.

(5) MEET THE MARKETING REQUIREMENTS UNDER SECTION 132.—

(a) FULL DISCLOSURE OF RATING PRAT- TICES.—

(1) IN GENERAL.—An insurer shall fully disclose rating practices for such plan to the group or any authority (as determined under section 121(c)).

(2) NOTICE ON EXPIRATION.—An insurer shall provide for notice of the terms for renewal of employees of the employer increases such that the employer is no longer a small employer.

(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group shall consist of not fewer than the number of small employers establishing the purchasing group, or otherwise require the establishment of a purchasing group.

(2) MEET THE ADMINISTRATIVE REQUIREMENTS UNDER SECTION 132.—

(a) NOTICE ON EXPIRATION.—An insurer shall provide for notice of the terms for renewal of employees of the employer increases such that the employer is no longer a small employer.

(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group shall consist of not fewer than the number of small employers establishing the purchasing group, or otherwise require the establishment of a purchasing group.

(6) CARRY OUT OTHER FUNCTIONS PROVIDED FOR UNDER THIS ACT.—

(7) L I M I T A T I O N ON A C T I V I T I E S .—A qualified small employer purchasing group shall not—

(a) offer a qualified health plan to a group or any authority (as determined under section 121(c)) that is a small employer;

(b) meet the marketing requirements under section 132.

(3) STATE CERTIFICATION.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certificate and otherwise ensure compliance with the requirements of this Act.

(4) SPECIAL RULE.—Notwithstanding paragraphs (1) and (2), an employer member of a small employer purchasing group established under this Act shall mean the employer and the group, and nothing in this section prevents an employer member from being a qualified health plan sponsor.

(5) MEMBERSHIP.—Each qualified small employer purchasing group shall offer to enter into agreements with small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

(6) V O T I N G .—Members of a qualified small employer purchasing group shall have equal voting rights on all issues.

(7) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

(a) offer a qualified health plan to a group or any authority (as determined under section 121(c)) that is a small employer;

(b) meet the marketing requirements under section 132.

(8) MEET THE ADMINISTRATIVE REQUIREMENTS UNDER SECTION 132.—

(a) NOTICE ON EXPIRATION.—An insurer shall provide for notice of the terms for renewal of employees of the employer increases such that the employer is no longer a small employer.

(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group shall consist of not fewer than the number of small employers establishing the purchasing group, or otherwise require the establishment of a purchasing group.
SEC. 135. MARKETING ACTIVITIES.

Each qualified small employer purchasing group shall market qualified health insurance plans to members through the entire community rating area served by the purchasing group.

SEC. 136. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) In General.—The Secretary shall award grants to States and qualified small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

(b) Application Requirements.—To be eligible to receive a grant under this section, a qualified small employer purchasing group shall comply with and submit an application in such form, at such time, and to such extent as the Secretary may reasonably require.

(c) Use of Funds.—Amounts awarded under this section may be used to finance the costs of planning, developing, and operating a qualified small employer purchasing group. Such costs may include—

(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

(2) soliciting bids and negotiating with insurers to make available health care benefit plans;

(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

(4) such other activities determined appropriate by the Secretary.

(d) Authorization of Appropriations.—There are authorized to be appropriated for the grants described in this section such sums as may be necessary.

SEC. 137. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

A State may establish a system in all or part of the State for qualified small employer purchasing groups for the community rating area in which such employers and individuals reside.

SEC. 138. COVERAGE REQUIREMENTS.

(a) General Rule.—An employer offering a health insurance plan shall meet the coverage requirements of this section.

(b) Coverage Requirements.

(1) Guaranteed Eligibility.—No individual (and any dependent of the individual eligible for coverage) may be denied, limited, conditioned, or excluded from coverage under a qualified health insurance plan on any preexisting condition.

(2) Limitations on Coverage of Preexisting Conditions.

(A) General Rule.—Any limitation under the plan on any preexisting condition may not extend beyond the 6-month period beginning with the date an insured is first covered by the plan.

(B) Exclusions for Preexisting Conditions.

(i) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(ii) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(A) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(B) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(i) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(ii) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(A) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(B) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(i) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(ii) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(A) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(iii) Limitation on Coverage of Preexisting Conditions for Health Conditions.

(A) General Rule.—Any limitation under the plan on any preexisting condition may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan.

(b) Coverage for Employees of Small Employers.

(1) General Rule.—A qualified small employer purchasing group shall cover the entire cost of the premiums for the eligible employees of small employers paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

(2) Additional Premiums.

If the amount withheld under paragraph (1) is not sufficient to cover the entire cost of the premiums, the eligible employee shall be responsible for paying any of the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

(c) Notice Requirement.

(1) General Rule.—Subparagraph (A) shall apply only if the insurer gives notice of the decision to terminate at least 90 days before the expiration of the plan.

(2) Transfers.

(A) General Rule.—If, upon a failure to renew a plan to which paragraph (A) applies, an insurer offers to transfer such plan to another plan of the same insurer for the same class of business, such transfer must be made without regard to risk characteristics.

(B) Large Business.

(A) General Rule.—Except as provided in subparagraph (B), the term “class of business” means, with respect to health care insurance provided to persons, all health care insurance provided to such persons.

(B) Establishment of Groupings.

(I) General Rule.—An insurer may establish separate classes of business with respect to health care insurance provided to all persons but only if such classes are based on one or more of the following:

(i) Business marketed and sold through insurers not participating in the marketing and sale of such insurance to other persons.

(ii) Business acquired from other insurers as a distinct grouping.

(iii) Business provided through an association of not less than 20 small employers and all or part of the business was established for purposes other than obtaining insurance.

(iv) Business related to managed care plans.

(V) Any other business which the Secretary determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

(II) Exception Applied.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of persons for each category specified in clause (I).

(III) Special Rule.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in plan characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

PART 3—ENFORCEMENT OF STANDARDS FOR HEALTH INSURANCE PLANS

SEC. 151. ENFORCEMENT BY EXCISE TAX ON INSURERS.

(a) In General.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:—
SEC. 4980C. FAILURE OF INSURER TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE PLANS.

(a) IMPOSITION OF TAX.—(1) IN GENERAL.—There is hereby imposed a tax on the failure of an insurer to comply with the requirements applicable to such insurer under parts 1 and 2 of subtitle B of title I of the Health Care Assurance Act of 1995.

(b) Rates.—Such tax shall be imposed at the rate of 9% of the amount of such tax imposed by subsection (a).

(c) Proposed Tax.—The provisions of subsection (a) shall apply for a taxable period beginning on the date of the enactment of this Act.

(d) Adjustment of Tax.—(1) In General.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(2) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

(e) Definitions.—For purposes of this section, the terms ‘health insurance plan’ and ‘insurer’ have the meanings given such terms in section 100 of the Health Care Assurance Act of 1995.

SEC. 4980C-1. Effect of Retroactive Provisions

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-2. Special Rule for Large Insurers

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-3. Nonapplicability of 25 Percent Limitation

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-4. Special Rule for Small Insurers

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-5. Special Rule for Insurers of Certain Eligible Employees

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-6. Special Rule for Insurers of Certain Eligible Employees

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-7. Special Rule for Insurers of Certain Eligible Employees

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

SEC. 4980C-8. Special Rule for Insurers of Certain Eligible Employees

(a) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person subject to such failure. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

(b) Limitation.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.
(1) which is maintained by a qualified association;
(2) which has at least 500 participants in the United States;
(3) under which the benefits provided consist solely of medical care (as defined in section 183(d) of the Internal Revenue Code of 1986);
(4) which may not condition participation in the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;
(5) for health coverage, in accordance with regulations providing rules similar to the rules under section 422 of the Employee Retirement Income Security Act of 1974, plans sponsored or administered by the plan or involved in the financial affairs of the plan; and
(6) which notifies each participant or provider that it is certified as meeting the requirements of this subtitle applicable to it.
(b) SELF-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D) of the Employee Retirement Income Security Act of 1974), the plan shall be treated as a qualified association plan only if—
(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary of Labor and which shall be in lieu of any other such requirements under this subtitle;
(2) the plan provides an annual funding report prepared by an independent actuary and annual financial statements to the Secretary of Labor and other interested parties; and
(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.
(c) CERTIFICATION.—
(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary of Labor that the plan meets the requirements of this part. For purposes of this subtitle, the Secretary of Labor shall be the appropriate certifying authority with respect to the plan.
(2) FEES.—The Secretary of Labor shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable fee for the cost of processing and reviewing the annual statements of the plan.
(d) EXPEDITED PROCEDURES.—The Secretary of Labor or a regulation provide for expedited registration, certification, and comment procedures.
(e) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States for the States to carry out the responsibilities of the Secretary under this part.
(f) AVAILABILITY.—Notwithstanding any other provision of this subtitle, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.
(g) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 1995—
(1) the requirements of subsection (a) (other than paragraph (4), (5), and (6) thereof) shall not apply
(2) the initial certification shall be required under this part; and
(3) no annual report or funding statement shall be required on or before January 1, 1997, but the plan sponsor, with the approval of the Secretary of Labor, may describe a plan and the name of the plan sponsor.

SEC. 182. DEFINITIONS AND SPECIAL RULES.
(a) QUALIFIED ASSOCIATION.—For purposes of this part, the term "qualified association" means any organization which—
(1) is organized and maintained in good faith solely for the purpose of a qualified association (as defined in section 183 of the Health Care and Education Assistance Act of 1986); and
(2) which is certified as meeting the requirements of this part.
(b) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—For purposes of this subtitle, the term "multiple employer welfare arrangement" has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974.

SEC. 183. CERTIFICATION PROCEDURES FOR QUALIFIED ASSOCIATIONS, MULTIPLE EMPLOYER WELFARE ARRANGEMENTS, AND COOPERATIVE PLANS.
(a) GENERAL RULE.—For purposes of this subtitle, in the case of a group health plan to which this section applies—
(1) unless otherwise provided in this part, the plan shall be subject to the applicable requirements of subpart A of part 2 of subtitle B and subtitle C for group health plans offered to and by small employers;
(2) if such plan is certified as meeting such requirements, the plan shall be treated as a plan established and maintained by a small employer and employees enrolled in such plan shall be treated as eligible employees; and
(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.
(b) MODIFIED STANDARDS.—
(1) CERTIFYING AUTHORITY.—For purposes of this subtitle, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.
(2) AVAILABILITY.—Rights similar to the rules of section 181 shall apply to a plan to which this section applies.
(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers employees the opportunity to enroll in a plan described in subsection (c)(2) shall be treated as if the employee is enrolled in such plan.
(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which is—
(1) a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;
(2) a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974) which is maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act) and which has at least 500 participants in the United States.

PART 3—ENFORCEMENT

SEC. 1801. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS.
(a) IN GENERAL.—(1) The Secretary of Labor shall impose a tax on qualified associations described in section 3(16)(B)(iii) of such Act and which has at least 500 participants in the United States; or
(2) a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act) and which has at least 500 participants in the United States.

SEC. 1802. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS, MULTIPLE EMPLOYER WELFARE ARRANGEMENTS, AND COOPERATIVE PLANS.

SEC. 1803. LIMITATION ON AMOUNT OF TAX.

SEC. 1804. LIABILITY FOR TAX.

SEC. 1805. PROCEDURE FOR COLLECTION OF TAX.

SEC. 1806. EXEMPTIONS, ETC., TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE PLANS.

SEC. 1807. SUMMARY PLAN DESCRIPTIONS.

SEC. 1808. TAX ON FAILURES TO COMPLY WITH REQUIREMENTS RELATING TO GROUP HEALTH PLANS.

SEC. 1809. TAX ON FAILURES TO COMPLY WITH REQUIREMENTS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

SEC. 1810. TAX ON FAILURES TO COMPLY WITH REQUIREMENTS RELATING TO COOPERATIVE PLANS.

SEC. 1811. TAX ON FAILURES TO COMPLY WITH REQUIREMENTS RELATING TO QUALIFIED ASSOCIATIONS, MULTIPLE EMPLOYER WELFARE ARRANGEMENTS, AND COOPERATIVE PLANS.

SEC. 1812. TAX ON FAILURES TO COMPLY WITH REQUIREMENTS RELATING TO CHURCH, MULTIPLE EMPLOYER, AND COOPERATIVE PLANS.

SEC. 1813. IMPLEMENTATION OF SPECIAL RULES.

SEC. 1814. ENFORCEMENT OF TAX.

SEC. 1815. SUMMARY PLAN DESCRIPTIONS.

SEC. 1816. REGULATORY ENFORCEMENT MECHANISMS.

SEC. 1817. COORDINATION OF ENFORCEMENT.

SEC. 1818. EFFECTIVE DATE.
Subtitle E—1-Year Extension of Medicare Select

SEC. 1021. 1-YEAR EXTENSION OF PERIOD FOR ISSUANCE OF MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 4285(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c-3 note) is amended by striking "3-year" and inserting "4-year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle F—Tax Provisions

SEC. 1022. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PHASE-IN DEDUCTION.—Section 162(f) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking paragraph (6); and

(2) by inserting at the end of section 162(f)—

"(7)(B) the applicable percentage for purposes of subsection (a) shall be modified in the case of the taxpayer, his spouse, and dependents, to the extent that the amount paid during the taxable year for insurance costs of self-employed individuals is allocable under this section to such taxpayer, his spouse, and dependents, and that amount is determined in accordance with paragraph (6);"

(b) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(B), the applicable percentage shall be determined as follows:

(1)(i) 1996

(II) 1997

(III) 1998 or 1999

(2) The applicable percentage for 1996 shall be 25 percent, the applicable percentage for 1997 shall be 50 percent, and the applicable percentage for 1998 or 1999 shall be 75 percent.

(c) EFFECTIVE DATE.—The amendments made by this section shall—

(1) in general, take effect on the first day of the first taxable year beginning after the date of the enactment of this Act; and

(2) apply to taxable years beginning after December 31, 1993.

Subtitle G—COBRA

SEC. 1023. MODIFICATIONS TO COBRA.

(a) LOWER COST COVERAGE OPTIONS.—Subtitle F (relating to continuation coverage) is amended by adding at the end of section 4980B(f)(2) of the Internal Revenue Code of 1986, as follows:

"(iii) is so identical, except such coverage is offered with an annual $1,000 deductible, and

(iv) is so identical, except such coverage is offered with an annual $1,000 deductible.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first taxable year beginning after the date of the enactment of this Act.

TITLE II—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 201. GRANTS TO STATES FOR HEALTHY START INITIATIVES.

(a) IN GENERAL.—The Secretary shall make grants to States with applications approved under this section in order to significantly reduce infant mortality and low birth weight births and improve the health and well-being of pregnant women, mothers, infants, and their families over a 5-year period through accelerated implementation of innovative strategies.

(b) PROJECTS DESCRIBED.—

(1) IN GENERAL.—In order to achieve the purposes described in subsection (a), grant funds under this section shall be used to conduct projects in eligible project areas (as defined in paragraph (3)) in such a manner as to ensure substantial involvement in State and local maternal and child health agencies and communities.

(c) APPLICABLE PERCENTAGE.—The applicable percentage for purposes of section 160 of the Internal Revenue Code of 1986 shall be 75 percent in each of the fiscal years 1995, 1996, and 1997, and such sum as may be necessary for each of the fiscal years 1998 through 2001.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated—

(II) $350,000,000 for fiscal year 1998 and $300,000,000 for fiscal years 1999 through 2001.

(2) DISTRIBUTION OF FUNDS.—(A) IN GENERAL.—For a fiscal year, each State shall be allocated an amount equal to the applicable percentage determined under paragraph (b) of this section, as determined by the Secretary of Health and Human Services, divided by the amount of money available to all States in the fiscal year preceding the fiscal year under title V of the Social Security Act, divided by the total amount of money available to all States in the preceding fiscal year under title V of such title.

(b) APPLICABLE PERCENTAGE.—The applicable percentage for purposes of paragraph (a) shall be determined—

(1) in the case of a grant made to a State—

(II) by striking "and such sums'' and inserting "such sums''; and

(II) by striking "and such sums'' and inserting "such sums''; and

(b) by striking "and such sums'' and inserting "such sums''; and

(c) by striking "and such sums'' and inserting "such sums''.

(c) IN GENERAL.—In order to achieve the purposes described in subsection (a), grant funds under this section shall be used to conduct projects in eligible project areas (as defined in paragraph (3)) in such a manner as to ensure substantial involvement in State and local maternal and child health agencies and communities.

(d) APPLICABLE PERCENTAGE.—The applicable percentage for purposes of section 160 of the Internal Revenue Code of 1986 shall be 75 percent in each of the fiscal years 1995, 1996, and 1997, and such sum as may be necessary for each of the fiscal years 1998 through 2001.

(1) by striking "and such sums'' and inserting "such sums''.

(2) by striking "and such sums'' and inserting "such sums''.
for each of the fiscal years 1998 through 2000.

(d) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254h(h)(1)(A)) is amended by striking "$205,000,000" and inserting "$235,000,000", "$700,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999" and inserting "through 1995, $80,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999".

(e) COMMUNITY HEALTH CENTERS.—Section 330g(3)(A) of the Public Health Service Act (42 U.S.C. 254f(3)(A)) is amended by striking "and 1991, and such sums as may be neces- sary for each of the fiscal years 1992 through 1994" and inserting "and 1995, $705,000,000 for fiscal years 1994 and 1995, and such sums as may be necessary for each of the fiscal years 1997 through 1999".

(f) SERVICES FOR THE HOMELESS.—Section 340g(1)(A) of the Public Health Service Act (42 U.S.C. 256g(1)(A)) is amended—

(1) by striking "and such" and inserting "such"; and

(2) by striking "and 1994," and inserting "through 1995, $90,000,000 for fiscal years 1996 and 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.".

(g) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300ff±55) is amended—

(1) by striking "and such" and inserting "such"; and

(2) by inserting after the period the fol- lowing: "; $200,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000."

(h) BREAST AND CANCER PREVENTION.—Section 1509 of the Public Health Service Act (42 U.S.C. 300n(5)(a)) is amended—

(1) by striking "and such" and inserting "such"; and

(2) by striking "for each of the fiscal years 1992 and 1993" and inserting "for each of the fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999."

(i) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 256g(1)) is amended by striking "$205,000,000" and inserting "$235,000,000".

(j) HOSPITALS.—Sections 310 of the Public Health Service Act (42 U.S.C. 256q) is amended—

(1) by striking "$216,000,000" and inserting "$225,000,000".

(k) PREVENTIVE VACCINES.—Section 2655 of the Public Health Service Act (42 U.S.C. 256ff±55) is amended—

(1) by striking "and such" and inserting "such"; and

(2) by inserting before the period ", $650,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

(l) MATERNITY AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "$70,000,000 for each fiscal year 1994 and each fiscal year thereafter" and inserting "$705,000,000 for fiscal years 1994 and 1995, $800,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999, and each fiscal year thereafter in accordance with their respective needs; and

(m) IRRIGATION, RECREATION, AND CONSERVATION.—(1) General.—There are authorized to be appropriated for each of the fiscal years 1980 through 2000—

(a) $2,000,000,000 for irrigation and re- creation, and

(b) $3,000,000,000, for conservation.

SEC. 203. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.

(a) Purpose.—It is the purpose of this section to establish a comprehensive school health education and prevention program for elementary and secondary school students.

(b) Program Authorized.—The Secretary of Education (referred to in this section as the "Secretary"), through the Office of Comprehensive School Health Education established under this section, shall award grants to States from allotments under subsection (c) to enable such States to—

(1) award grants to local or intermediate educational agencies, and consortia thereof, to enable such agencies or consortia to establish, operate, and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

(2) develop training, technical assistance, and coordination of school health education programs as provided pursuant to paragraph (1).

(c) Reservations and State Allotments.—

(1) Reservations.—From the sums appropriated pursuant to the authority of subsection (f) for each fiscal year, the Secretary shall reserve—

(A) $100,000,000 for fiscal years 1994 and 1995; $200,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999; and

(B) $10,000,000 for each fiscal year from allotments under subsection (e), shall award grants to States from allotments under subsection (c) to enable such agencies or consortia to establish, operate, and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

(2) develop training, technical assistance, and coordination of the programs assisted pursuant to paragraph (1).

(d) Authorization of Appropriations.—There are authorized to be appropriated $40,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 and 1998 to carry out this section.

TITLE III—PATIENT’S RIGHT TODECLINE MEDICAL TREATMENT

SEC. 301. PATIENT’S RIGHT TO DECLINE MEDICAL TREATMENT.

(a) Right To Decline Medical Treatment.—

(1) Rights of Competent Adults.—(A) In General.—Except as provided in paragraph (b), a State may not restrict the right of a competent adult to consent to, or to decline, medical treatment.

(B) Limitations.—(i) Right of Third Parties.—A State may impose limitations on the right of a competent adult to decline treatment if such limitations protect third parties (including minor children) from harm.

(ii) Treatment Which Is Not Medically Indicated.—Nothing in this subsection shall be construed to require that any individual be offered treatment by a state that any individual may demand, medical treatment which the health care provider does not have available, or which is, under prevailing medical standards, futile or otherwise not medically indicated.

(2) Rights of Incapacitated Adults.—(A) In General.—Except as provided in subparagraph (B) of paragraph (1), States...
may not restrict the right of an incapacitated adult to consent to or to decline medical treatment as exercised through the documents specified in this paragraph, or through similar documents or other written methods of directing medical treatment, which evidence the adult's treatment choices.

(B) ADVANCE DIRECTIVES AND POWERS OF ATTORNEY.

(I) IN GENERAL.—In order to facilitate the communication, decision making, and exercise of such rights, and to inform individuals of their rights under this section, the Secretary shall develop a national advance directive form that—

(1) shall not limit or otherwise restrict, except as provided in subparagraph (B)(i) of paragraph (2), an adult's right to consent to, or to decline, medical treatment; and

(2) shall, at minimum—

(aa) provide the means for an adult to declare such adult's own treatment choices in the event of a terminal condition;

(bb) provide the means for an adult to declare, at such adult's option, treatment choices in the event of other conditions which are medically incurable, and from which such adult likely will not recover; and

(cc) provide the means by which an adult may, at such adult's option, declare such adult's wishes with respect to all forms of medical treatment, including forms of medical treatment such as the provision of nutrition and hydration, and artificial means of ventilation, which such adult may, in some circumstances, relatively nonburdensome.

(ii) NATIONAL DURABLE POWER OF ATTORNEY FORMS.—In consultation with the Attorney General, the Secretary shall develop a national durable power of attorney form for health care decisionmaking. The form shall provide a means for any adult to designate another adult or adults to exercise the same decisionmaking powers which would otherwise be exercised by the patient if the patient were competent.

(iii) HONORED BY ALL HEALTH CARE PROVIDERS.—The national advance directive and durable power of attorney forms developed by the Secretary shall be honored by all health care providers.

(iv) LIMITATIONS.—No individual shall be required to execute an advance directive. This section makes no presumption concerning the intention of an individual who has not executed an advance directive. An advance directive shall be deemed sufficient, but not necessary, proof of an adult's treatment choices with respect to the circumstances addressed in the advance directive.

(C) DEFINITION. —For purposes of this paragraph, the term "incapacitated adult" means an individual who is—

(1) an incapable adult;

(2) an emancipated minor.

(2) EFFECTIVE DATE. —

(I) IN GENERAL.—This section shall take effect on the date that is 6 months after the date of enactment of this Act.

(II) ADDITIONAL PROVISIONS.—Section (g) of the provisions of section (g) shall take effect on the date of enactment of this Act.

(TITLE IV—PRIMARY AND PREVENTIVE CARE PROVIDERS)

SEC. 401. EXPANDED COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1915(i)(1) of the Social Security Act (42 U.S.C. 1396i(a)(1)) is amended—

(1) by adding at the end of clause (i), by striking "80 percent" and all that follows through "physician" and inserting "85 percent of the fee schedule amount provided under section 1984 for the same service performed by a physician"; and

(2) by amending subparagraph (O) to read as follows: "(O) with respect to services described in clause (K) of section 1919(a) (relating to services provided by a physician, a clinical nurse specialist, or a nurse practitioner) the amounts paid shall be 85 percent of the fee schedule amount provided under section 1984 for the same service performed by a physician, and;

(b) NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—Section 1915(n)(12) of the Social Security Act (42 U.S.C. 1396u(n)(12)) is amended to read as follows: "(12) With respect to services described in clause (I) of section 1919(a) (relating to services provided by a physician, a clinical nurse specialist, or a nurse practitioner)";

(c) PAYMENT FOR ALL NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1915(i)(1) of the Social Security Act (42 U.S.C. 1396i(i)(1)) is amended by striking "and" at the end of paragraph (a)(3) and inserting "or" in its place.

(d) REMOVAL OF RESTRICTIONS ON SITUATIONS.—Section 1915(i)(1) of the Social Security Act (42 U.S.C. 1396i(i)(1)) is amended to read as follows:

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) EFFECTIVE DATE. —

(I) IN GENERAL.—This section shall take effect on the date that is 6 months after the date of enactment of this Act.

(II) ADDITIONAL PROVISIONS.—Section (g) of the provisions of section (g) shall take effect on the date of enactment of this Act.

(TITLE V—CONGRESSIONAL RECORD—SENATE)

January 4, 1995
SEC. 404. GENERAL MEDICAL PRACTICE GRANTS.

(a) Establishment.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical student tutorial programs or to support clinical activities conducted by medical schools and colleges in general practice.

(b) Application.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c).

(1) Use of Funds.—Amounts received under a grant awarded under this section shall be used to:

(A) fund programs under which students of the grantees are provided as tutors for high school and college students in the areas of mathematics, science, health promotion and prevention, first aide, nutrition and pre-natal care;

(B) fund programs under which students of the grantees are provided as participants in clinics and seminars in the areas described in paragraph (1); and

(C) support programs for high school and college students to promote careers in medicine.

(2) Design of Programs.—The programs, institutes, and other activities conducted by grantees under paragraph (1) shall be designed to—

(A) give medical students desiring to practice general medicine access to the local community;

(B) provide information to high school and college students concerning medical school and the general practice of medicine; and

(C) promote careers in general medicine.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.

SEC. 501. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following new section:

SEC. 4008. NEW DRUG CLINICAL TRIALS PROGRAM.

(a) In General.—The Director of the National Institutes of Health (referred to in this section as the Director) is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining the drugs and disease treatments that shall be a subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted toward the diseases determined—

(1) to be the most costly to treat;

(2) to have the highest mortality; or

(3) to affect the greatest number of individuals.

(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.

SEC. 502. MEDICAL TREATMENT EFFECTIVENESS.

(a) Research on Cost-Effective Methods of Health Care.—Section 526 of the Public Health Service Act (42 U.S.C. 290b-3) is amended—

(1) by striking “and” and inserting “and” such sums as may be necessary for each of the fiscal years 1996 through 1998; and

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

(f) Use of Additional Appropriations.—Within amounts appropriated under section (a) for each of the fiscal years 1995 through 1997 that are in excess of the amounts appropriated under such section for fiscal year 1993, the Secretary shall give priority to expanding research conducted to determine the most cost-effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.

(b) Research on Medical Treatment Outcomes.

(1) Imposition of Tax on Health Insurance Policies.—

(A) In General.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subsection:

SEC. 4501. Tax on Health Insurance Policies.

(2) Effective Date.—The amendments made by this subsection apply to policies issued after December 31, 1995.

SEC. 503. NATIONAL HEALTH INSURANCE DATA AND CLAIMS SYSTEM.

(a) In General.—Using advanced technologies to the maximum extent practicable, the Secretary of Health and Human Services (referred to in this section as the Secretary) shall establish and maintain a national health insurance data and claims system, which shall be comprised of—

(1) a centralized national data base for health insurance and health outcomes information;

(2) a standardized, universal mechanism for electronically processing health insurance and health outcomes data; and
(3) a standardized system for uniform claims and the transmission of claims.

(b) National Data Base for Health Insurance Information.—The national data base for health insurance and health outcomes cost containment—

(1) be centrally located;
(2) rely on advanced technologies to the maximum extent practicable; and
(3) be readily accessible for data input and retrieval.

(c) Standardized System for Uniform Claims and Transmission of Claims.—

(1) Consultation with the National Association of Insurance Commissioners in connection with the establishment of the system under subsection (a)(3).

(2) Use of Recognized Standards.—The Secretary shall, to the maximum extent practicable, establish standards for the system under subsection (a)(3) that are consistent with standards that are widely recognized and adopted.

(d) Timing for Establishment of System.—

(A) In general.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish standards for the system under subsection (a)(3).

(B) Review.—Not later than 24 months after standards have been established under subparagraph (A), the Secretary shall review such standards and make any modifications determined appropriate by the Secretary.

(e) Confidentiality.—The Secretary shall ensure that information collected under this section is managed so that confidentiality is protected.

(f) Authorization of Appropriations.—There shall be authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 504. HEALTH CARE COST CONTAINMENT AND QUALITY INFORMATION PROGRAM.

(a) Grant Program.—

(1) In general.—The Secretary of Health and Human Services (referred to in this section as the ‘Secretary’) shall make grants to States that establish or operate health care cost containment and quality information systems in accordance with the terms of its plan of care prescribed by a licensed professional who—

(A) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living (as defined in paragraph (4)), (B) has certified that such individual meets such criteria, and (C) Transferring.

(B) Dressing.

(2) Use of Funds.—States may use grant funds under this section to establish a health care cost containment and quality information system or to improve an existing system operated by the State.

(3) Application.—To be eligible for a grant under this section, a State must submit an application to the Secretary within 2 years after the date of the enactment of this Act, such application to be submitted in a manner determined appropriate by the Secretary and shall include the designation of a State agency that will operate the cost containment and quality information system for the State.

The Secretary shall approve or disapprove a State application within 6 months after its submission.

(c) Minimum Federal Standards.—Not later than 6 months after the date of the enactment of this section, the Secretary, after consultation with the National Association for Health Care Policy and Research, other Federal agencies, the Joint Commission on Accreditation of Hospitals, States, health care providers, health plans, insurers, health maintenance organizations, businesses, academic health centers, and labor organizations that purchase health care, shall establish Federal standards for the operation of health care cost containment and quality information systems by States receiving grants under this section.

(d) Collection and Public Dissemination of Information by States.—

(1) In general.—A grantee receiving a grant under this section shall require that a health care cost containment and quality information system will collect at least the information, in the format and publicly disseminate such information in a useful format to appropriate persons such as business, consumers of health care services, labor organizations, health plans, hospitals, and other States.

(2) Information Described.—The information described in paragraph (1) is the following:

(A) Information on hospital charges.

(B) Clinical data.

(C) Demographic data.

(D) Information regarding treatment of individuals by particular health care providers.

(3) Electronic Transmission of Information.—The State program under this section shall require that any information described in paragraph (2) with respect to which the Secretary has established standards for data elements and information transactions under subsection (a)(3) shall be transmitted to the State’s health care cost containment and quality information system in accordance with such standards.

(4) Privacy and Confidentiality.—The State cost containment and quality information system shall ensure that patient privacy and confidentiality is protected at all times.

(e) Compliance.—If the Secretary determines that a State receiving grant funds under this section has failed to establish or operate a system which meets the terms of its approved application, the Secretary may withhold payment of such funds until the State remedies such noncompliance.

(f) Definitions.—For purposes of this section—

(1) the term ‘health care cost containment and quality information system’ means a system which is established or operated by a State in order to collect and disseminate the information described in subsection (d)(2) in accordance with subsection (d)(1) for the purpose of providing information on health care costs and outcomes in the State; and

(2) the term ‘State’ means a State, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(g) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(1) In general.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish standards for data elements and information transactions under subsection (a)(3).

(2) Use of Funds.—States may use grant funds under this section to establish an information system which meets the Federal standards established under subsection (a)(3).

(3) Standardized System for Uniform Systems Defined.—Section 213 relating to the deduction for medical, dental, etc., expenses is amended by inserting at the end the following new subsections:

(g) Qualified Long-Term Care Services Defined.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by inserting at the end the following new subsections:

(1) In general.—The term ‘qualified long-term care services’ means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)),

(B) have as their primary purpose—

(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

(ii) protection from threats to health and safety due to severe cognitive impairment, and

(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

(2) Incapacitated Individual.—The term ‘incapacitated individual’ means any individual who—

(A) unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in paragraph (3), or

(B) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

(3) Activities of Daily Living.—Each of the following is an activity of daily living:

(A) Eating.

(B) Toileting.

(C) Transferring.

(D) Bathing.

(E) Dressing.

(F) Licensed Professional.—The term ‘licensed professional’ means—

(A) a physician or registered professional nurse, or

(B) any other individual who meets such requirements as may be prescribed by the Secretary after consulting with the Secretary of Health and Human Services.

(S) Certain Services Not Included.—The term ‘qualified long-term care services’ shall not include any services provided to an individual—

(A) by a relative (directly or through a partnership, corporation, or other entity) under whose direction the relative is a professional with respect to such services, or

(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.
For purposes of this paragraph, the term "related relationship to the individual which is described in paragraphs (1) through (8) of section 152(a).

"(h) Special Rule for Certain Long-Term Care Expenses. —For purposes of subsection (a), the term "dependent" shall include any parent or grandparent of the taxpayer for whom the taxpayer has provided qualifying long-term care services described in subsection (g), but only to the extent of such expenses.

"(i) Technical Amendments.—

(1) Paragraph (D) of section 213(d)(1)(I) (as redesignated by subsection (a)) is amended by adding at the end the following new subpar

sections for chapter 79 is amended by inserting the following new item:

"(B) Satisfies the requirements of paragraph (A) and inserting "paragraph (B)" and inserting "subparagraph (A), (B), (C), (D) and (E)."

(2) Paragraph (g) of section 213(d) is amended—

"(a) Exclusion of Amounts Received. —Sec

"(b) Maximum Benefit. —(A) In General. —The requirements of this paragraph are met if the benefits payable under the policy for any period (whether on a periodic basis or otherwise) do not exceed the dollar amount in effect for such period.

"(B) Nonreimbursement Payments Permitted. —Benefits shall include all payments described in subsection (a) to or on behalf of an insured individual without regard to the expenses incurred during the period to which the payments relate. For purposes of section 7705(b), such payments shall be treated as compensation for expenses paid for medical care.

"(C) Dollar Amount. —The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount within the range established by regulations (2), (3), (4), (5), and (6)).

"(D) Adjustments for Increased Costs. —(i) In General. —The amount in effect under subparagraph (C) for the preceding calendar year after 1996, the dollar amount in effect under paragraph (a) for the term of the policy, is the amount referred to in subclause (I) multiplied by the cost-of-living adjustment for the calendar year after 1996, the dollar amount in effect under subpara

"(E) Period. —For purposes of this paragraph, the period begins the date that an individual has a condition which would qualify for certification under subsection (b)(1)(A) and ends on the earlier of the date upon which—

"(i) such individual has not been so certified within the preceding 12 months,

"(ii) the individual's condition ceases to be substantially a condition for which certification under subsection (b)(1)(A)

"(F) Aggregation Rule. —For purposes of this paragraph, all policies issued with respect to the same insured shall be treated as one policy.

"(G) Treatment of Coverage Provided as Part of a Life Insurance Contract. —No waiver or increase in benefits provided as part of section 213(a) for charges against a life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)), unless such charges are includible in income as a result of the application of section 7702(f)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (a).

(b) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting the following new item:

"(Sec. 7706. Qualified long-term care insurance.)

SEC. 604. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE AS ACCIDENT AND HEALTH INSURANCE FOR PURPOSES OF TAXATION OF INSURANCE COMPANIES.

(a) In General. —Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Qualified Long-Term Care Insurance Treated as Accident and Health Insurance. —For purposes of this subsection, any reference to noncancellable accident or health insurance contracts shall be treated as including a reference to qualified long-term care insurance.

(b) Effective Date. —The amendment made by this section shall apply to taxable years beginning after December 31, 1995.
(A) PERMANENTLY CONFINED TO A NURSING HOME.—For purposes of this subsection, an individual has been permanently confined to a nursing home if the individual is presently confined to a nursing home and has been certified, by a physician licensed under State law, as having an illness or cognitive impairment or loss of functional capacity which can reasonably be expected to result in the individual being permanently confined to a nursing home for the rest of the individual’s life.

(b) TREATMENT OF QUALIFIED ACCELERATED DEATH BENEFIT RIDERS AS LIFE INSURANCE.—(1) IN GENERAL.—For purposes of this section, the term ‘qualified accelerated death benefit rider’ means any rider or addendum on, or other provision of, a life insurance contract which permits payments to an individual on the life of an insured upon such insured becoming a terminally ill individual (as defined in section 101(g)(2)), incurring a dread disease (as defined in section 101(g)(3)), or being permanently confined to a nursing home (as defined in section 101(g)(4)).

(2) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—(A) RIDER TREATED AS QUALIFIED ADDITIONAL BENEFIT.—Subparagraph (A) of section 7702(f)(5) (relating to definition of life insurance contract) is amended by adding at the end the following new subparagraph:

"(c) qualified long-term care insurance policy (as defined in section 129A), or".

(2) EXPENSES FOR WHICH REIMBURSEMENT PROVIDED UNDER QUALIFIED LONG-TERM CARE INSURANCE POLICY TREATED AS INCURRED FOR MEDICAL CARE OR FUNCTIONAL LOSS.—(A) EXPENSES.—Expenses incurred by the taxpayer or spouse, or by the dependent, parent, or grandparent of either, to the extent such expenses are covered under a qualified long-term care insurance policy shall be treated for purposes of section 106, this section, and section 213(d).

"(B) ANY REFERENCES TO FACILITIES OR SERVICES FOR LONG-TERM CARE OR FUNCTIONAL LOSS.—Any references to facilities or services for long-term care or functional loss made by this section shall apply to facilities or services for long-term care or functional loss provided to the dependent, parent, or grandparent of the taxpayer or spouse.

(3) REFERENCE TO ACCIDENT AND HEALTH PLANS.—Any reference to an accident or health plan shall be treated as including a reference to a plan providing qualified long-term care insurance as defined in section 213(d).

(4) TREATMENT OF FACILITIES OR SERVICES FOR LONG-TERM CARE OR FUNCTIONAL LOSS.—Any expenditures for facilities or services for long-term care or functional loss shall be treated as expenditures for medical care (as defined in section 213(d)) or for qualified long-term care insurance (as defined in section 213(d)(4)), as the case may be.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after January 31, 1995.

SEC. 611. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) GENERAL RULE.—Subpart C of part IV of chapter A of chapter 1 (relating to items specifically excluded from gross income) is amended by striking the item relating to section 101(d) after section 101(d) and by redesignating section 101(e) as section 101(d).

(b) TREATMENT OF QUALIFIED DEATH BENEFIT RIDERS AS LIFE INSURANCE.—For purposes of this section, the term ‘qualified death benefit rider’ means any rider or addendum on, or other provision of, a life insurance contract which permits payments to an individual on the life of an insured upon such insured becoming a terminally ill individual (as defined in section 101(g)(2)), incurring a dread disease (as defined in section 101(g)(3)), or being permanently confined to a nursing home (as defined in section 101(g)(4)).

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1995.

SEC. 612. EXCLUSION FROM GROSS INCOME OF BENEFITS RECEIVED UNDER QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Section 105 (relating to amounts received under accident and health plans) is amended by inserting at the end the following new subsection:

"(i) the amount of the benefit provided by such policy to the extent such benefit is not considered to be the receipt of a premium on the policy or of a return of premium in the year such benefit is received.

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1995.

SEC. 613. EMPLOYER DEDUCTION FOR CONTRIBUTIONS MADE FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subparagraph (B) of section 404(b)(2) (relating to plans providing certain deferred benefits) is amended to read as follows:

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any benefit provided through a welfare benefit fund (as defined in section 419(e)), or

"(ii) any benefit provided under a qualified long-term care insurance policy for which the payment (in whole or in part) of premiums for such policy by an employer pursuant to a plan for its active or retired employees, but only if any refund or premium applied to reduce the future costs of the plan or increase benefits under the plan.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 614. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS.

(a) IN GENERAL.—Section 125(d)(2) (relating to the exclusion of deferred compensation) is amended by striking the reference to a section 125 plan and inserting as the first sentence:

"(a) GENERAL RULE.—Subpart C of part IV of chapter A of chapter 1 (relating to items specifically excluded from gross income) is amended by striking the item relating to section 101(d) after section 101(d) and by redesignating section 101(e) as section 101(d)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 615. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION, EXCESS FUNDS RETURNED, OR GRACE PERIOD ELECTED FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Section 104 (relating to amounts received on cancellation, excess funds returned, or grace period elected for qualified life insurance policies) is amended by adding at the end the following new subsection:

"(e) EXCLUSION.—Subsection (d) of section 104 is amended by striking "(d)" and inserting "(d)(5)" after subsection (d) and by redesignating subsection (e) as subsection (d)(5).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 616. ADDITIONAL PROVISIONS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 36 (relating to the exclusion of amounts received on cancellation, excess funds returned, or grace period elected for qualified life insurance policies) is amended by redesignating as section 36 section 35.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
(4) in the case of an individual who has attained age 59½, a contract of life insurance or an endorsement or annuity contract for a qualified long-term care insurance policy, if such policy may not be surrendered for cash.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 616. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE.

(a) In General.—Subsection (d) of section 121 (relating to 1-time exclusion of gain from sale of principal residence by individual who has attained the age of 55) is amended by adding at the end of the following paragraph: "(10) Eligibility of Home Equity Conversion Sale-Leaseback Transaction for Exclusion.—(A) In General.—For purposes of this section, the term 'sale or exchange' includes a home equity conversion sale-leaseback transaction.

(B) Home Equity Conversion Sale-Leaseback Transaction.—For purposes of subparagraph (A), the term 'home equity conversion sale-leaseback' means a transaction in which:

(i) the seller-lessor—

(I) has attained the age of 55 before the date of the transaction,

(II) sells property which during the 5-year period ending on the date of the transaction has been used as a principal residence by such seller-lessor for periods aggregating 3 years or more,

(iii) uses a portion of the proceeds from such sale to purchase a qualified long-term care insurance policy, which policy may not be surrendered for cash,

(iv) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

(V) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised,

(C) Additional Definitions.—For purposes of this paragraph—

(i) Occupancy Rights.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period that is less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

(ii) Fair Rental.—The term 'fair rental' means a rental for any subsequent year which equals or exceeds the rental for the first year of a sale-leaseback transaction.

(b) Effective Date.—The amendment made by this section shall apply to sales after December 31, 1996, in taxable years beginning after such date.

Title I: Health Insurance Market Reforms: Market reforms include:

Insurance Standards: Title I establishes standards for health insurers which would include market share and renewal and renewability requirements of coverage to all individuals regardless of the existence of pre-existing conditions.

Tax Equity for the Self-Employed: Title I provides self-employed individuals and their families 100 percent tax deductibility for the cost of health insurance coverage. Under current law, no deduction exists for the self-employed since the law which provided only a 25 percent deduction for such costs expired on December 31, 1993. All other employers may deduct 100 percent of such costs.

Title I corrects this inequity for the self-employed, 3.9 million of which are currently uninsured.

Small Employer and Individual Purchasing Groups: Title I establishes voluntary small employer and individual purchasing groups designed to provide competitive health care options for such individuals.

Employer Mandate to Offer: Title I provides that each employer offer at least 2 health care plans, one of which is a fee-for-service plan or a plan with a point-of-service option. There is no requirement that employees pay for this coverage. Title I also provides, under section 605(a)(4) of the Act, to increase consumers availability of choice in their health care coverage.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

Portability: For those persons who are uninsured or covered by a group plan, persons who fear losing coverage should they lose their jobs, Title I reforms existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA covers former employees through their former employers' plans; and (2) expanding coverage options to include plans with a lower premium and a catastrophic policy covering a typical family of four 20 percent in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52 percent in monthly premiums.

Medicare Select Program: Title I extends the Medicare Select Program, which expires on June 30, 1995, for one year. This program authorizes States to conduct demonstration projects to give Medicare recipients the opportunity of enrolling in a Preferred Provider Organization for their supplemental Medicare coverage. Currently 15 States have Medicare Select programs. Title I also authorizes States to offer Medicare Select programs in 35 States.

Title II: Primary and Preventive Care Services: Title II authorizes the Secretary of Health and Human Services to provide grants to States for programs (healthy start initiatives) to reduce infant mortality and low birth weight births and to improve the health and well-being of mothers and their families. Title II also provides assistance through a grant program to local education agencies and pre-school programs to provide comprehensive health education. In addition, Title II increases access to existing preventive health programs, such as, breast and cervical cancer prevention, childhood immunizations, and community health centers.

Title III: Patient's Right to Decline Medical Treatment: Improve the effectiveness and portability of advance directives by strengthening the federal law regarding self-determination and establishing uniform federal forms with regard to self-determination.

Health Care Cost Containment and Quality Improvement Project: Title V authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

Health Care and Long-Term Care Insurance: Title V also expands access to medical care quality information from hospitals, nursing homes, home health agencies, and other health care providers.

Outcomes Research: Expands funding for outcomes research necessary for the development and medical practice and increasing consumers' access to information in order to reduce the delivery of unnecessary and overpriced care.

New Drug Clinical Trials Program: Title V authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

National Health Insurance Data and Claims System: Title V authorizes the development of a National Health Insurance Data System to curtail the escalating costs associated with paper work and bureaucracy. The Secretary of Health and Human Services is directed by title V to encourage States to centralize health insurance and health outcomes information incorporating effective privacy protections. Standardizing such information will reduce the time and expense involved in processing paperwork, increase efficiency, and reduce costs.

Health Care Cost Containment and Quality Improvement Project: Title V authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

Social Security Disability Insurance: Title V also makes provision for social security disability insurance for individuals with pre-existing health conditions; (2) small employer health benefits package; (2) guarantee issue and renetable features; (3) health plans offering coverage through former employers through their former employers or an endowment or annuity contract for a qualified long-term care insurance policy, if such policy may not be surrendered for cash.

(b) Effective Date.—The amendment made by this section shall apply to sales after December 31, 1995.
that require long-term care to eliminate the current barriers for institutional care, some community-based alternatives.

FOOTNOTES
3 Professor NICKLES. Mr. President, today I am joined by Senators HELMS, SMITH, and Mr. GRASSLEY. S. 19. A bill to amend title IV of the Social Security Act to enhance educational opportunity, increased school attendance, and address the community-based incentive among welfare recipients; to the Committee on Finance.

LEARNFARE LEGISLATION
Mr. NICKLES. Mr. President, today I am joined by Senators HELMS, SMITH, and Mr. GRASSLEY. I introduce legislation that will give States greater flexibility in enacting laws that link school attendance to welfare benefits. These innovative State initiatives are known as Learnfare.

We are all aware that this Congress will face the larger issue of comprehensiveness, which emphasizes individual choice and responsibility as the key to leaving the welfare rolls of poverty, not a bloated bureaucracy. A very significant part of that reform which will break the welfare cycle is education and innovative Learnfare programs.

States and governments all over the Nation are looking for new ways to reduce the prevalence of welfare dependency and lower high school dropout rates. Learnfare calls on adults to be held accountable for their actions, and holds parents on public assistance accountable for the education of their children. This is just plain common sense. Most policymakers agree that education is the best way to break the cycle of generational poverty that plagues our Nation's poor. Children who drop out of school are more likely to be unemployed, more likely to turn to a life of crime, and more likely to end up on welfare than their peers who remain in school. We must take every measure possible to ensure that every child has access to the benefits of our Nation's educational systems.

Pioneered in Wisconsin, Learnfare is the linkage of AFDC dollars to school attendance. Interest in these programs has been voiced from Massachusetts to California and from Washington to Florida as well as the State of Oklahoma. Currently, States are able to enact these measures by obtaining a waiver from the Department of Health and Human Services to expand their mandated job opportunities and basic skills. [OBJS] programs to include school-age dependents of AFDC recipients. Unfortunately, States seeking to gain this waiver have met with Federal, bureaucratic stonewalling. I want to stress that this is not a mandate on the States but simply gives them the option by removing barriers which currently exist if they chose to implement a Learnfare program.

My legislation will remove this Federal stumbling block by amending the State programs section of the Social Security code's AFDC regulations to allow States the option of implementing Learnfare programs. Doing away with the necessity for a Federal waiver will encourage States to implement innovative ways of keeping at-risk youths in school. It is important to note that this legislation places no mandates on the States—it simply gives them the option to establish a program if they choose. Knowing the importance of educational opportunities, this legislation adopted a 90-percent graduation rate as one of the national education goals. Learnfare will help attain this goal.

I truly hope this will be the first step toward reestablishing the once commonplace notion that individuals are answerable for their actions. Requiring responsible actions of welfare recipients will create a two-way obligation between the States and those on welfare. States are obliged to assist recipients in getting off the welfare rolls and recipients, in turn, are encouraged to use their benefits to better their situation.

We must challenge all Americans to take a stake in our Nation's education systems. As the debate on welfare reform unfolds, I challenge my colleagues to support this legislation and to recognize that it is a key part of any welfare reform package. It will give the States the opportunity to enact programs the ensure every school-age child in America the educational opportunity they deserve.

By Mr. MOYNIHAN:
S. 20. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

HANDGUN AMMUNITION CONTROL ACT
Mr. MOYNIHAN. Mr. President, I introduce a measure to improve our information about the regulation and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms (BATF) on the disposition of ammunition, including the amount, caliber, type and amount of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations to Congress concerning the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition to $1,000.

While there are enough handguns in circulation to last well into the 22nd century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our data base is woefully inadequate.

I supported the Brady law, which requires a 5-day waiting period before the purchase of a handgun, and the recent ban on semiautomatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, as I have said...
before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Patrolmen’s Benevolent Association asked me to do something about armor-piercing bullets. J.acketed and in tungsten or other materials, these rounds could penetrate four police flak jackets and five Los Angeles County telephone books. They are of no sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the “cop-killer” bullets in the 97th, 98th and 99th Congresses. It enjoyed overwhelming support by law enforcement groups and, ultimately, tacit support from the National Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The Crime Bill enacted in 1994 contained my amendment to broaden the 1996 ban to cover new thick steel-jacketed armor-piercing rounds.

Our cities are becoming more aware of the benefits to be gained from ammunition control. The District of Columbia and other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the City of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and new Year’s Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And most recently, in September of 1994, the City of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policy-making. This bill would fulfill that need by requiring annual reports to BATF by manufacturers and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible by substantially increasing application fees for licenses to manufacture .25 caliber, .32 caliber, and 9 mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excessive damage.

I urge my colleagues to support this measure, and ask unanimous consent that its full text be printed in the Record.

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

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Handgun Ammunition Control Act of 1996.”

SECTION 1. RECORDS OF DISPOSITION OF AMMUNITION.

(a) Amendment of Title 18, United States Code.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (3)(A) by inserting after the second sentence “and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale or other disposition of ammunition for the purpose of proof of business of such importer or manufacturer for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition.”;

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

“(2) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year or may prepare a statement of the potential for preventing crime by regulating or restricting the availability of ammunition.

SEC. 2. INCREASE IN LICENSING FEES FOR MANUFACTURERS OF AMMUNITION.

Section 923(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E) respectively;

(B) by inserting after paragraph (1), the following new paragraph:

“(E) .25 caliber, .32 caliber, or 9 mm ammunition, a fee of $10,000 per year.”;

By Mr. Dole (for himself, Mr. Lieberman, Mr. Helms, Mr. Thurmond, Mr. McConnell, Mr. Packwood, Mr. D’Amato, Mr. McCain, Mr. Biden, Mr. Mack, Mr. Kyl, Mr. Gorton, Mr. Hatch, Mr. Specter, Mr. Packwood and Mr. Lieberman),

S. 21. A bill to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina; to the Committee on Foreign Relations.

BOSNIA-HERZEGOVINA SELF-DEFENSE ACT

Mr. Dole. Mr. President, I will also introduce another bill which will have the number S. 21, together with the distinguished Senator from Connecticut, Senator Lieberman. The bill is known as the Bosnia-Herzegovina Self Defense Act of 1995, which would terminate the United States arms embargo on Bosnia. We are pleased to be joined by a number of bipartisan sponsors, and we have had a lot of bipartisan votes. In fact, the last time we had a vote we had 58 votes.

I was hoping that we would not have to offer this legislation again this year. I was hoping that after more than a thousand days of Sarajevo’s Siege, after more than thousand excuses from the leaders of the international community, that finally some action would be taken. Tragically, despite countless promises of tough action against brutal Serb aggression, the international community has chosen to confront this egregious violation of international law and the affront to principles of humanity, with what amounts to appeasement. Ironically, the only promise this administration, the Europeans, and the United Nations have kept is the promise to continue to deny the Bosnian people the right to defend themselves against genocidal aggression.

What is so disappointing about this situation, is that the last time the Senate voted on this matter, the Clinton administration made the following predictions and commitments: First, the contact group countries were serious about living up to the commitments they made in the July 30 communiqué, which included stricter enforcement and expansion of the exclusion zones in Bosnia; Second, the Clinton administration would seek a multilateral lifting of the arms embargo in the U.N. Security Council; and Third no further concessions would be made to the Bosnian Serbs, the contact group plan being a “Peaceful Ultimatum.”

Nearly 6 months later, what do we see? In Bihac we saw that there is no will to fulfill current NATO and U.N. commitment to protect the safe havens in Bosnia, let alone take on greater responsibilities; A U.S.-sponsored resolution to lift the embargo lies dormant in the U.N. Security Council for more than 2 months now; and Representatives from contact group countries are rushing to Belgrade and to Pale to further sweeten the pot for the Bosnian Serbs and their mentor, Slobodan Milosevic. The have tacitly agreed to a confederation between Serb-controlled areas of Bosnia and Serbia, and are moving toward extending sanctions relief for Serbia even though Milosevic’s announced embargo of the Bosnian Serbs has proven to be a sham.

We still every day hope peace is around the corner. We are told, let us pass some more resolutions, let somebody in the United Nations make a statement, let us listen to the British, let us listen to the French, let us do all these things and we have been doing it and doing it and nothing happens.

The United Nations has a dual key approach, which means NATO cannot do anything in Bosnia, if they want to do anything, and even that is questionable.

Another ceasefire has been reached—but maybe it will hold—but by their own admission, the Bosnian Serbs have only agreed to the contact group plan because they keep is their “basis for further concessions.” Can we really call that progress?

And so, we are offering legislation to lift the arms embargo once more. This bill does allow for the possibility that the ceasefire may hold for 4 months; it would not lift the arms embargo until
May 1 of this year unless there is a formal request from the Bosnian Government prior to that time.

There are those who will say that this bill undermines the ceasefire and the peace process. I strongly disagree. Since when does leverage undermine diplomacy? So far, the only leverage is on the Bosnian side—because they control 70 percent of Bosnia, they hold U.N. troops hostage with impunity, they shut down the Sarajevo airlift by threatening NATO planes, because they do these things and all they have to fear is a visit by Yasushi Akashi. On the other side are the Bosnians, who are nominally protected in their safe havens, and can only see evidence of their rights as a sovereign nation on paper—in the U.N. Charter or some U.N. resolution.

The bottom line is that if this legislation is passed and no peace settlement is reached, Radovan Karadzic and his thugs will have to face greater consequences than another meeting of the contact group. That would be a great improvement over the empty threats of the last 33 months.

I would like to quote from the late Secretary General of NATO, Manfred Woerner, who gave a speech in the Fall of 1993 about NATO and foreign policy in the 21st century. He said, and I quote: "First, political solutions and diplomatic efforts will only work if backed by the necessary military power and the credible resolve to use it against an aggressor. Second, if you cannot or do not want to help the victim of aggression, enable him to help himself."

The United States and the members of the alliance would do well to consider the wise words of Manfred Woerner—one of the strongest secretaries general in NATO's history. The contact group's diplomacy is not backed by the necessary military power or credible resolve—and that is why its diplomatic efforts have failed, causing considerable damage to the credibility of the United States and the other NATO allies. But if they continue after these long months it is apparent that the international community is unwilling to confront Serbian aggression, we should help the victim of this aggression, Bosnia.

Mr. President, I would also like to address some of the arguments made against "unilaterally" lifting the arms embargo. First, if the United States acts first, that does not mean we will not be joined by other countries. I believe that despite British and French objections, even some of our NATO allies would join us. Moreover, there are other countries, including the gulf states and moderate Islamic governments that would participate in financing and providing military assistance. As for the argument that leading the way would lead to the demise of other embargoes against aggressor states, such as Iraq, this argument assumes that our allies cannot tell the difference between a legal and illegal embargo.

Second, the provision of training and arms would not require the deployment of U.S. ground troops. The Bosnians have an advantage in manpower—what they need are weapons. Indeed, it is the administration's policy of committing the United States to assist in the enforcement of the contact group settlement that would lead to the potential deployment of tens of thousands of U.S. ground troops—and for a considerable length of time because the Bosnians would still be unable to protect their territory.

Third, I deny those who point to reports of arms shipments from Iran to Bosnia, a decision to arm the Bosnians would reduce the potential influence and role of radical extremists states like Iran. The Muslins in Bosnia are secular Muslims, not fundamentalists, who have lived with Christians and Jews in peace for centuries. Ironically, our policy toward Bosnia has fueled anti-Western extremism in the Middle East.

Some say it is too late, the Bosnians have lost and it would take too long for them to achieve the capability to defend themselves against the powerful Serb forces. In my view, that judgment should be left to the Bosnians—it is their country and their future. Furthermore, the fact is that Serb forces would not have chosen to advance if they had not been confident in the Bosnian government's lack of resolve and we do not know what the impact of leveling the military playing field will have on the effectiveness of Serb forces. Let us recall that some in our Government greatly overestimated the potential of the Iraqi forces and underestimated the military and political impact that stung had on the mighty Soviet Red Army in Afghanistan. Serb forces are not the Red army, they are not the Iraqi army.

As for the extent of military assistance required, the Bosnians do not need to duplicate the inventory of Serb forces, only acquire the means to counter them. Earlier Pentagon estimates indicated that the arms assistance is required to assist the Bosnians amount to a scare tactic. The Bosnians need Soviet-style weapons—which are readily available and less expensive than top of the line U.S. systems—in addition to training in strategy and tactics.

Finally, I would like to address the argument I heard in London, that the withdrawal of U.N. protection forces would result in the serious deterioration of the humanitarian situation in Bosnia. This would likely be true in the short term, particularly in the eastern enclaves. However, we must recognize that the circumstances have worsened in recent months despite the presence of U.N. protection forces. Bosnian Serb forces, the Bosnians may be able to target their forces on the eastern enclaves, as they did in Bihac, U.N. protection would probably amount to very little. The bottom line is that over the long term, the Bosnians are better off putting their future into their own hands, than in the hands of international bureaucrats—even if in the short term, the opposite may be true.

Mr. President, we are rapidly approaching the third anniversary of this tragic war. We have an opportunity to take real action, to take meaningful action, by terminating this illegal and unnecessary arms embargo on Bosnia-Herzegovina. I urge my colleagues to sign up as cosponsors and take a firm stand in support of democracy, international law and humanity.

Mr. President, I ask unanimous consent that my entire statement be made a part of the RECORD, and also a statement by Senator LIEBERMAN and Senator FEINGOLD. And I would indicate to my colleagues the other cosponsors. Of course, our resolution is open to additional cosponsors. The cosponsors are Senator CONRAD, LIEberman, CHAMBLISS, THURMOND, MCCONNeLL, LOTT, FEINGOLD, D'AMATO, McCaIN, BIDen, MAck, KYl, GORTon, HATCH, SPEcTER, PACKwood and GREGG.

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. 21
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 "Bosnia and Herzegovina Self-Defense Act of 1995".

SEC. 2. FINDINGS.
The Congress makes the following findings:
(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-257) the United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina through a vote on a United Nations Security Council resolution since the enactment of section 1404 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).
(2) The United Nations Security Council has not taken measures necessary to maintain international peace and security in Bosnia and Herzegovina since the aggression against that country began in April 1992.

SEC. 3. STATEMENT OF SUPPORT.
The Congress supports the efforts of the Government of the Republic of Bosnia and Herzegovina—
(1) to defend its people and the territory of the Republic;
(2) to preserve the sovereignty, independence, and territorial integrity of the Republic; and
(3) to bring about a peaceful, just, fair, viable, and sustainable settlement of the conflict in Bosnia and Herzegovina

SEC. 4. TERMINATION OF ARMS EMBARGO.
(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina on—

S. 212
CONGRESSIONAL RECORD—SENATE January 4, 1995
(1) the date of receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter, or
(2) May 1, 1995, whichever comes first.

(b) DEFINITION. As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina means the policy of the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (56 F.R. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) RULE OF CONSTRUCTION. Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

Mr. LIEBERMAN. Mr. President, the people of Bosnia-Herzegovina are in the midst of their third terrible winter of war. For most Bosnians, uncertain food supplies, running water, heat and fuel compound the misery of loss—of family members, friends, personal security, and their once-multiplicty. Bosnia, a United Nations member state, has been the victim of aggression from neighboring Serbia, which has suffered genocide in the guise of "ethnic cleansing." And it has been effectively forced by the so-called "Great Powers" to trade sovereignty over more than half of its territory in exchange for unfulfilled promises of peace.

Why did these terrible things happen to Bosnia? Has it blown up civilian aircraft? Assassinated police? Kidnapped diplomats? Built or exported nuclear weapons? No. Bosnia had the temerity to ask four states to leave the former Yugoslavia pursuant to a vote by its citizens.

When the remnants of the former Yugoslavia retaliated by invading Bosnia, how did the United Nations respond? By sending more troops to support member state Bosnia's right of self-defense. It has not effectively defended the safe areas it persuaded Bosnia to agree to. It has assisted the Serbs with ethnic cleansing by moving populations out of contested areas and providing a share of fuel and humanitarian supplies to the Serb forces—even while they shelled civilians and U.N. peacekeepers.

The intention behind these misguided policies was to stop the fighting in Bosnia. It was thought that an even-handed policy taking sides against the aggressor was the best way to restore peace. But the practical effect of this policy has been anything but even-handed.

The divisions rending the former Yugoslavia are not new since the end of the cold war. The emotions propelling the violence in that region festered invisibly for years but did not disappear under authoritarian communism. Similarly, they will not disappear under an unjust peace imposed by the United Nations. This is the post-cold war era, when democratic rights are supposed to be free to flower. It is inconsistent both with the opportunities presented by the end of the cold war and with the United States' commitment to human rights and democracy in the post-cold war world. The peace process does not benefit from any policy pay-offs with the victims against the aggressor and reward democratic leaders instead of authoritarian dictators.

The United Nations asserts that lifting the arms embargo against Bosnia will lead to further violence in Bosnia, in the Balkans, and beyond. United States unilaterally lifting the embargo, preferably with but if necessary without the concurrence of the United Nations.

Mr. FEINGOLD. Mr. President, I rise today as an original co-sponsor of the Dole-Lieberman bill to terminate the U.S. arms embargo against the Republic of Bosnia and Herzegovina. By introducing this bill on the first day of the 104th Congress, we are signalling that we will do all we can to pursue a just and moral policy toward Bosnia, the United States should turn away from acquiescence in a policy which immorally equates victim and aggressor, makes promises to the victims which it does not honor and establishes as a tenet of the new world order that determined nations will stand by their own aggressive acts. If the United Nations' policy of cease-fire in Bosnia, the Serb Serbs have one more change to reach a peaceful settlement with the Bosnian Government. If they do not seize this opportunity or violate the cease-fire in Bosnia, the United States should lift the embargo, preferably with but if necessary without the concurrence of the United Nations.

This feels a bit like deja vu. When I came to the Senate 2 years ago, the war in Bosnia was already raging. The Serb Serbs, egged on by Serbia, were fighting to create a greater Serbia at the expense of a sovereign nation, and at any cost to humanity and international law. We were horrified by evidence of ethnic cleansing of non-Serb UN forces; of systematic rape of Bosnian women by Serb military; and of naked aggression against a member state of the United Nations. Informed by resolutions after the Holocaust in 1945 that "never again" would we bear "witness" to such atrocities, we debated whether to lift the U.N. arms embargo against Bosnia, and permit the Bosnian Government to exercise its guaranteed right of self-defense. In March 1993 I introduced the first resolution urging the United States to work with the United Nations to lift the embargo, and then I joined Senators DOLE, LIEBERMAN, and others in offering several floor amendments to lift the U.S. embargo unilaterally.

Currently, the Senate Foreign Relations Committee, on the floor of the Senate, and in conference on major foreign policy bills during the 103d Congress we voted repeatedly on the question of whether to lift the arms embargo against Bosnia, either multilaterally or unilaterally. I and others argued that as a sovereign nation, Bosnia was entitled to exercise its right of self-defense, and that since the negotiating strength of each party is dependent to
some degree on equity in access to arms, no peace plan would meet success unless Bosnia had an opportunity to counter Serbian aggression on its own.

There was overwhelming majority support to lift the embargo, though the Senate was closely divided on any given day. Whether the United States would no longer enforce the embargo. This is a welcome step, but falls short of the imperative to terminate the embargo altogether.

I maintain that the United States is authorized to lift the embargo unilaterally because it contravenes Article 51 of the United Nations Charter, and is therefore non-binding. Article 51 protects the inherent right of individuals and states to self-defense “until the Security Council has taken measures necessary to maintain international peace and security.” Clearly, the United Nations has yet to take measures which do that.

As a substitute, the United Nations has passed resolutions to restrain the Serbian aggression and impose a multinational peacekeeping force to deliver humanitarian aid to starving Bosnians; and sponsored a series of failed and misguided peace plans. NATO has also threatened air attacks, obliquely coordinated with the United Nations in certain cases. The promises to be a surrogate protector were all supposed to compensate Bosnia for the denial of its self-defense by the international community.

But, while some of these measures may have saved lives, there is no substitute for self-defense, Mr. President. In fact, these policies have subverted the rules of international law and order, and have made the United Nations and states to self-defense “until the Security Council has taken measures necessary to maintain international peace and security.” Clearly, the United Nations has yet to take measures which do that.

If the Contact Group wishes to succeed, then any settlement it negotiates will have to include a lifting of the arms embargo against Bosnia, either with or without our NATO allies in international law. The United Nations has never moved it. At a minimum, the U.S. presented a resolution to the Security Council through the Contact Group are selling the embargo altogether.

By Mr. DOLE (for himself, Mr. Heflin, Mr. Brown, Mr. Burns, Mr. Hatch, Mr. Nickles, Mr. Craig and Mrs. Kasasebaum):

S. 22. A bill to require Federal agencies to prepare private property taking impact analyses; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY RIGHTS ACT OF 1995

Mr. DOLE. Mr. President, time and again I have heard from the people all across America that Congress must do more to stop the infringement on private property rights. I believe we have all heard this message. Today, I along with Senators HEFLIN, BROWN, CRAIG, KASASEBAUM, BURNS, HATCH and NICKLES are introducing the private property Rights Act of 1995. This legislation will serve as a small step toward ensuring that government mandates and government bureaucrats do not continue to run roughshod over individual citizens and individual rights.

Now, a lot has been said on this floor regarding private property rights. I think many of us agree on the need to protect private property. The question is how we go about to get the government out of the peoples’ backyards?

Last year I introduced the private property rights Act of 1994. Some Members in this Chamber may recall a new version of that legislation was later attached to the Safe Drinking Water Act. Today, I am introducing the Private Property Rights Act of 1995. This bill has incorporated some of the changes proposed during the debate of the 1994 Safe Drinking Water Act, although there are still differences.

This bill takes a “look before you leap” approach to the regulatory process. The legislation requires Federal
agencies to conduct a takings impact assessment when promulgating any agency policy, regulation, guideline, or finding before recommending legislative proposals to Congress. This bill does not stop legitimate regulatory processes and it only applies to any action which could result in an actual taking.

The purpose of this bill is to require the Federal Government to conduct an impact analysis concerning the taking of private property. This analysis shall be based in the protection of the Constitution and the Fifth Amendment to the United States Constitution.

The rights of property owners are supposed to be protected from the Federal Government under the fifth amendment to the United States Constitution, which includes the rights to compensation for any taking of private property by the Federal Government. Unfortunately, those who have sworn to uphold our Constitution are not always as vigilant in protecting the property rights of the people.

This bill is designed to ensure that the government complies with the Constitution. The rights of property owners are supposed to be protected by the Federal Government under the fifth amendment to the United States Constitution. Unfortunately, those who have sworn to uphold our Constitution are not always as vigilant in protecting the property rights of the people.

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The rights of property owners are supposed to be protected by the Federal Government under the fifth amendment to the United States Constitution. Unfortunately, those who have sworn to uphold our Constitution are not always as vigilant in protecting the property rights of the people.
(i) EFFECTIVE DATE.—The provisions of this Act shall take effect 120 days after the date of the enactment of this Act.

Mr. HELMS. Mr. President, I rise today to support the Private Property Rights Act of 1995—a bill similar to the private property rights legislation Senator Dole and I introduced during the 103d Congress. This bill recognizes the important role the use and ownership of property plays in American society and declares the policy of the Federal Government to be one that will minimize takings of private property.

The 103d Congress recognized that the Constitution clearly provides that private property cannot be taken for public use without just compensation. As such, the Dole-Heflin bill creates a method whereby the impact on private property rights is duly considered in Federal regulatory activities. Specifically, the bill will require Federal agencies to certify to the Attorney General that a taking impact assessment has been completed prior to promulgating any agency policy. The takings impact assessment must consider the effect of the agency action, the cost of the action to the Federal Government, the reduction in value to private property owners, and the Federal Government's financial liability for such compensable takings.

In closing, I believe that private property rights are the foundation of the individual liberties we all enjoy as Americans. Therefore, I urge my colleagues to join me in supporting this important legislation.

By Mr. HELMS:

S. 23. A bill to protect the First Amendment rights of employees of the Federal Government; read the first time.

PROTECTING FEDERAL EMPLOYEES' RIGHTS TO QUESTION HOMOSEXUAL AGENDA IN THE WORKPLACE

Mr. HELMS. Mr. President, it became an embarrassment to the decency of the American people last year that in many high places within Government, free speech was to be permitted only when organized homosexuals agreed to it.

There was an episode on July 20, 1994, when 58 Senators voted in defense of a faithful and longtime employee of the Department of Agriculture—Dr. Karl Mertz. The first amendment rights of employees were callously violated after he dared to stand up against sodomy. Took a stand, on his own time, by stating his opposition to special rights for homosexuals. As a result of that Senate vote and my holding up USDA nominations and legislation, the former Secretary of Agriculture, Mike Espy, restored that employee, Dr. Karl Mertz, to his previous position.

While the amendment I offered last summer only protected the first amendment rights of employees at the USDA, I said at the time that it was also imperative that all employees throughout the Federal Government be assured that they are able to exercise, without fear of reprisal, their right to question the special rights for homosexuals that have been proposed by numerous Federal agencies.

And that is the intent for the legislation I am introducing today. For Senators who did not hear the text of the bill when it was read by the clerk, let me read it again.

Notwithstanding any other provision of law, no employee of the Federal Government shall be permanently removed without public hearings from his or her position because of remarks made during personal time in opposition to the Federal Government's policies, or proposed policies, regarding homosexuals, and any such individual so removed prior to date of this Act shall be reinstated to his or her previous position.

Senators might belittle this bill as needless. Nothing could be further from the truth. Simply put, this bill protects the rights of Federal employees to speak their mind on their own time when it comes to matters of moral and spiritual significance. If they lose this right—as Dr. Mertz almost did at the Department of Agriculture—then all Americans lose.

Mr. President, Americans have very strong feelings about the religious and moral implications of homosexuality. And Americans opposed to it have every bit as much a right to oppose the Federal Government's efforts to extend special rights to homosexuals.

As the homosexuals have to ask for special rights, privileges, and protections from the Government. Allowing homosexuals to characterize free speech opposing their agenda as hate speech—as the news media does as well—is one thing; but allowing the Federal Government to take their side in the open debate and in the Federal workplace is quite another.

That is why the legislation I am introducing today is designed, if enacted, to ensure that the Federal Government remains neutral in the ongoing cultural debate over homosexuality. Federal employees will be able to state their true feelings on the issue without having to worry about so-called politically correct bureaucrats getting them fired.

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

S. 23. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; read the first time.

CIVIL RIGHTS OF INFANTS ACT

Mr. HELMS. Mr. President, all who value the rights of the unborn are in agreement on this proposal. From our distinguished colleague from New Hampshire, Mr. Humphrey. From the day he arrived in the Senate, until the day he left, he championed the cause of the most innocent, most helpless, victims of the pernicious society that plagues America—infants. In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus on the basis of the gender of the unborn child.

Geneticists say that the reasons for this change in attitude are an increased availability of diagnostic technologies, a growing disinclination of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. Many geneticists and ethicists say they are disturbed by the trend.

Professor George Annas of the Boston University School of Medicine was quoted as saying:

"I think the [medical] profession should set limits and I think most people would be outraged and properly so at the notion that you would have an abortion because you don't want a boy or you don't want a girl. If you are worried about a woman's right to an abortion, the easiest way to lose it is not set any limits on this technology."

Mr. President, I recall my disbelief after having read the article that any mother in a civilized society would be willing to destroy her unborn female child simply when she preferred a male—or vice-versa. But believe it. It has happened and continues to happen with the acquiescence of the U.S. Government.

That is why I am today again offering legislation to limit this cruel and inhumane practice. The 103d Congress declined to act on my legislation in this regard. I pray that the 104th Congress will take action to end this barbaric practice.

Specifically, the legislation I've sent to the desk proposes to amend title 42 of the United States Code—the statute governing civil rights—so as to provide that abortionists who administer an abortion—because the mother doesn't
like the gender of the infant in her womb—will be subject to the same laws which protect other citizens who are victims of other forms of discrimination.

Then, Mr. President, there was a USA Today article published February 2, 1999, which reported:

In a break with past medical attitudes more geneticists are open to identifying gender for parents early—so they can decide whether to abort.

The change has ethicists debating where a parent’s right to information ends and the rights of the unborn begin.

A recent national survey of 212 medical geneticists found 20 percent approved of performing prenatal testing for sex selection; in a 1973 survey, only 1 percent approved.

"Probably 99 percent of nonmedical requests for prenatal diagnosis are made because people want a boy," says Dr. Mark Evans, an obstetrician and geneticist at Wayne State University, Detroit. Some experts are concerned about a selective sex ratio.

Evans turns down nonmedical sex selection requests, "Being female," he says, "is not a disease."

Mr. President, how can various feminist groups such as the National Organization of Women remain silent while America hurries down the path taken in India 5 years ago when a survey in Bombay 5 years ago revealed that of 8,000 abortions, 7,999 were female?

Mr. President, I have never been able to countenance the senseless slaughter of unborn babies. I have sought in vain for someone to explain the logic—aside from the moral and spiritual aspects—of deliberately destroying literally millions of little baby boys and girls when hundreds of thousands of Americans are standing in line to adopt babies.

A Boston Globe poll reported that 93 percent of the American people reject the taking of life as a means of gender selection.

Mr. President, I want NOW, NARAL, and the other antifamily groups invade Capitol Hill from time to time, Molly Yard, Patricia Ireland, and many others chant the mantra that when it comes to abortion—demand "It’s time for Congress to understand we are the majority," they may want to redo their calculations, based on the November 8 elections.

Hopefully, this 104th Congress can take some early action to fulfill the desires of the 93 percent of the American people who rightfully believe it is immoral to destroy unborn babies because the mother happens to prefer a boy instead of a girl, or a girl instead of a boy.

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. 24

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 "Civil Rights of Infants Act."
SECTION I. LIMITATION ON USE OF APPROPRIATED FUNDS

No funds appropriated out of the Treasury of the United States may be used for the purpose of promoting, encouraging, or engaging in any activity, or for any purpose, that avowedly promotes, encourages, or engages in discrimination based on sexual orientation when conducting personnel action, or to fund any position in the Government, the purpose of which is to compel, insist, encourage, urge, or persuade employees or former employees (a) to (1) recruit, on the basis of sexual orientation, homosexuals for employment with the Government; or (2) prevent, accept, condone, or celebrate homosexuality as a legitimate or normal lifestyle.  

FEDERAL GOVERNMENT PROMOTES HOMOSEXUALITY USING “DIVERSITY” COVER  
(By Robert L. Maginnis)

The federal government is using taxpayer money to promote homosexuality as the moral equivalent to heterosexuality. This is happening under the guise of diversity and it links virtually every aspect of government to the homosexual agenda.  

FEDERAL GOVERNMENTS PROMOTES HOMOSEXUALS OFFICIAL STATUS

During the first two years of the Clinton Administration, most federal agencies have amended their equal employment opportunity policies and equal employment opportunities to include the term “sexual orientation.” These changes are not justified by law.

For example, Carol Browner, Administrator of the Environmental Protection Agency, sent a memo to all EPA employees on October 14, 1994 stating, “Today, the EPA joins the growing list of public and private sector employers which have added ‘sexual orientation’ to our equal employment opportunity policy.”

Housing and Urban Development Secretary Henry Cisneros did the same in August, 1994 with a memo that states, “Sexual harassment and discrimination based on sexual orientation are unacceptable in the workplace and will not be tolerated at HUD. This is happening under the guise of diversity and it links virtually every aspect of government to the homosexual agenda.”

Department of Transportation Secretary Federico Pena published his statement in 1993 which declares, “[N]o one be denied opportunities because of his or her race, color, religion, sex... or sexual orientation.”

The Federal Bureau of Investigation joined the chorus when director Louis Freeh stressed the importance of sexual “inclusionary behavior” and adopted a new policy to admit homosexuals to the ranks of the Bureau. Several homosexuals are now being trained as postal mail users.

Freeh’s boss, Attorney General Janet Reno, declared that the Department of Justice will not discriminate on the basis of sexual orientation when conducting personnel action and clearance actions.

Although homosexuality has long been a marker for homosexual misconduct, Reno removed any reference to sexual orientation from application forms. Congressman Barney Frank (D-MA), an openly homosexual man, stated, “The clear implication is that, outside the uniformed military services, being gay will not be a relevant factor.”

Moreover, Reno ruled that a foreigner who claimed that he was persecuted by his government for being homosexual may be eligible to immigrate to the U.S. In 1994 the Attorney General waived immigration laws so that avowedly HIV-infected homosexuals could participate in the “Gay Olympics.”

This official recognition of homosexuals is taking place without legislative action. Indeed, there are no laws requiring these changes, and little chance that such laws could be passed. Homosexuals are being awarded special status based solely on behavior, not on a benign characteristic like race or gender.

The Administration’s official recognition goes even further. Managing Director James King sent a memo to all OPM employees in January, 1994 announcing the formal recognition of the Gay, Lesbian, and Bisexual Employee Group (GLOBE) as a professional association. This recognition bestows on GLOBE the same privileges extended to other associations. For example, GLOBE can maintain facilities, communications systems, bulletin boards, and have official representation at personnel meetings.

GLOBE’s stated purpose is to “promote understanding of issues affecting gay, lesbian and bisexual employees; promote the creation of diverse work force that assures respect and civil rights for gay, lesbian and bisexual employees; and create a forum for the concerns of the gay, lesbian and bisexual community.” There are more than 40 chapters throughout the federal government.

The Department of Transportation GLOBE chapter earned some notoriety when posters bearing depictions of conceiving homosexuals were displayed on bulletin boards. The posters were made at government expense and identified Eleanor Roosevelt, Virginia Woolf, Errol Flynn, and Walt Whitman as homosexuals.

Federal Aviation Administration employee Anthony Vencieri complained when he received a DOT voice mail message inviting him to “celebrate with us the diversity of the gay and lesbian community.” The message was broadcast to all 4,100 DOT voice mail users. He was removed from the system after complaining but was later reinstated.

The Federal Aviation Administration (FAA) Office of Civil Rights spokesman stated, “The Department of Transportation has officially recognized the organization [GLOBE]... The FAA complies with this recognition of an employee association which contributes to employee welfare and morale and assists in fostering a climate of diversity and inclusion.”

GLOBE also uses government facilities to promote homosexuality. During June 1994, GLOBE chapter members were allowed to use space to host homosexual programs. For example, DOT hosted six events in the Washington headquarters. Those in attendance were discussed有任何“sexual diversity” movement. A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional well being of each of its members.

Advocate to the Small Business Administration the inclusion of gay and lesbian owned businesses eligible for minority set-aside contracts.

Advocate that retirement benefits include domestic partners.

Add non-discrimination provisions to all project contracts to bar discrimination based on sexual orientation except for bona fide religions and youth groups.

DIVERSITY TRAINING MANDATORY

Bureau of Labor Statistics Commissioner Katherine Abraham, whose performance agreement with Secretary of Labor Robert Reich includes diversity training, hosted three-hour diversity training sessions for BLS employees. The paid guest speaker cited the value of diversity: “Diversity means our national survival.” He closed the session by reading a letter from homosexual BLS employees complaining about discrimination. He concluded, “What’s necessary in the workplace is for everybody to have the attitude that people are not good, nice, bad, just diverse. . . .”

The Department of Agriculture and, more specifically, a subordinate organization, the Forest Service, means by diversity. According to that article, diversity means a redefinition of family promoting gay pride month, encouraging the use of federal resources to promote homosexual causes.

A letter from Region 5 Forester Ronald E. Stewart to his employees outlines Forest Service’s support of the homosexual community. Stewart’s memo to “All Region 5 Employees” says, “We can not allow our personal beliefs to be transformed into behaviors that would discriminate against another employee.”

The proposed policy: Prohibits discrimination based on sexual orientation.

Empowers homosexuals to serve as mentors and network coordinators. Incorporates sexual orientation awareness training.

Establishes a computerized network for isolated homosexual employees.

Awards pro-gay work settings.

Encourages local “multicultural awareness celebrations” like gay pride month.

Directs supervisors to consider an employee’s domestic partner when assigning schedules.

This proposal encourages Forest Service employees to lobby for the following.

Amend federal travel regulations to incorporate the needs of domestic partners.

Adopt this definition of a family: “A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional well being of each of its members.”

Advocate to the Small Business Administration the inclusion of gay and lesbian owned businesses eligible for minority set-aside contracts.

Advocate that retirement benefits include domestic partners.

Add non-discrimination provisions to all project contracts to bar discrimination based on sexual orientation except for bona fide religions and youth groups.
counsel's presentation on the new non-discrimination policy for gays, lesbians, and bisexuals. 32 The Forest Service has a training booklet entitled, Valuing Diversity. 33 Inside the booklet which is 80 pages long are such as: "Human biological and social influences alone cannot cause homosexuality. . . . Fact: A biological (genetic, hormonal, neurological, other) pre-disposition to homosexuality, bisexuality or heterosexual orientation is present at birth in all boys and girls." No source for these "facts" is provided, nor could there be. 34 So-called "homosexuals" are "part of the diversity equation sized that all of us "must be prepared to opportunity to excel without regard to his or her race, color, gender, sexual orientation. . . ." 35 No one is forced to implement the new policy. However, the Forest Service informed employees that it has a policy to implement the new non-discrimination policy. 36 The training has received a mixed review. Federal employee and diversity researcher to the Family Environmental Research Council to complain that they found the training offensive. They explained that many husbands were involved in condom use. 37 Two supervisors and 41 employees in the Forest Service's Tahoe Region on May 6, 1994 near the Pentagon. Diversity Day 94 included an opening ceremony with a welcome by a three-star admiral who stated, "The federal employee must make diversity not a part of his or her working culture."

The government's guest speaker was diversity expert and professor at Northeastern Illinois University Dr. Samuel Betances. He explained that former Alabama governor George Wallace, a one-time racist, started over by recanting his racist beliefs. Betances encouraged homosexuals to organize to get respect" much like women, blacks, and Latinos organized. He emphasized that all of us "must be prepared to unlearn" old ways. He observed that homosexuals are "part of the diversity equation whether we like it or not" and they "need a climate of respect" of others. The training included a seminar entitled "Another Color of the Rainbow: Sexual Minorities in the Workplace" taught by an adult versions of high school sex ed, with "sex" replaced by "homosexuality." This seminar was being held during National AIDS Awareness Month. The seminar was conducted by a local health official who draws blood, and an HIV-positive woman from money designated for research into Kaposi's sarcoma (KS). 40 NCI's press office indicated that Hamer's study looked at KS, which is an AIDS-related cancer prevalent among gay men. And Hamer promoted his research as a multifactorial study investigating genetic factors for Kaposi's sarcoma and lymphoma. 41 Yet, curiously, Hamer "ran no tests to determine whether his clients had KS." 42 And Hamer stated in a court deposition that he has never published anything on Kaposi's sarcoma. 43

More taxpayer-funded gay research is in the works. Hamer wrote a letter to Health and Human Services Secretary Donna Shalala arguing for the creation of an NIH Office of Gay and Lesbian Health Concerns. The American Medical News reports that the HHS is seriously exploring the possibility of a research program. Hamer envisions the office going beyond research into the origins of sexual orientation to include HIV and other sexually transmitted cancers. Hamer also plans to study how societal reactions leads to higher rates of substance abuse and adolescent suicide. 44

As an aside, Angela Pattatucci, one of Hamer's research assistants, has an ongoing project that deals with genetics and lesbianism. According to Victoria L. Magnuson of Hamer's NIH office, Pattatucci's "lesbian study has a cancer component." Yet the advertising fliers developed for this study call it a study of the "genetic nature of sexual orientation". The fliers state that "per diem and travel expenses would be covered by "NIH," and that sub-study subjects would be interviewed by "gay-positive" personnel. 45

Pattatucci's track record raises serious questions about her objectivity as a researcher. She recently told Network, a homosexual magazine based in New Jersey, "I believe the most important thing a gay person..."
can do is to be public about his or her homo- 
sexual orientation. 'If they want to be bigots, they can do is to be public about his or her homo-
on their own. I have nothing to hide.' 21 Kishore Jayabalan, "Typecasting `Diversity,'" Wind-
Avenue, October 31 to November 1, 1994.

25 "Inspection Service Diversity Network Meeting 

22 Ibid.

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By Mr. HELMS:
S. 26. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

CIVIL RIGHTS RESTORATION ACT

Mr. HELMS. Mr. President, 3½ years ago, on June 25, 1991, I offered an amendment to the Omnibus Crime Bill to do away with quotas in the workplace by amending Title VII of the Civil Rights Act of 1964. I recalled an article by the Rev. Dr. Martin Luther King Jr., dated December 21, 1963, entitled, "Letter from a Birmingham Jail." Dr. King wrote:

"One may well ask: Why the long line of Amendments to the Civil Rights Act of 1964? The answer is simple: AFFIRMATIVE ACTION."

That amendment was defeated. I did not press the point. But the Senate did. President Carter directed the Department of Labor to prepare an Executive Order requiring affirmative action. The Senate held a roll call vote on that amendment and supported it by a vote of 74 to 26.

The Helms legislation clarifies several of the amendments to the Civil Rights Act of 1964 that have come before the Senate in recent years. It would make it clear that the Senate now stands in agreement with the amendment that I offered."
blacks.' When the Daniel Lamp Company stood up to the intimidation of the EEOC, the agency tightened the noose. Not only did the company have to meet the quota and pay a huge fine, it also had to spend $10,000 to advertise in newspapers to tell other job applicants that they might have been discriminated against. And yet, to prove they contacted the Daniel Lamp Company for a potential financial windfall.

Mr. President, do you see what is going on here? The Daniel Lamp Company wasn’t one of those Fortune 500 companies. They can’t afford to give a bunch of lawyers and can placate the various special interest groups by hiring according to quotas. The Daniel Lamp Company was a small, struggling enterprise which can afford to pay its few employees a scant $4.00 an hour. This company hired only minorities. But that wasn’t good enough for the quota bureaucrats in Washington. They said the company didn’t hire enough of the “right” minorities.

This bill will put an end to this disgraceful power play by the quota crowd in the Federal bureaucracy.

Mr. President, do we want a nation where privilege and employment are handed out on the basis of group identity rather than merit? Already police and firemen in our major cities are clashing over who can be classified as black or Hispanic to ensure they receive job preference because of their minority status. Check the newspapers in San Francisco, Chicago, and Boston to see if I’m correct.

The Helms legislation protects the Daniel Lamp Company and the firemen and the policemen, of whatever race, who are out there working hard at their jobs in the belief that they will be rewarded for their hard work—not judged on the color of their skin.

This proposal also includes an important safeguard which will protect those businesses and institutions whose special needs require personnel qualified for the job on the basis of religion, sex, or national origin. Like the other sections of title VII, this amendment protects the religious school or institution that grants preferences in hiring or admissions because they are white. The solution is not to place unqualified minority workers, or others of different national origin, in jobs for which they are not adequately trained as a band-aid to end discrimination. If anything is to destroy the self-esteem of many workers, heightening anger and discrimination among fellow employees when some members of the workforce are unable to carry their fair share of the load * * * never excluding from programs others equally poor or deprived simply because they are white. The solution is not to place unqualified minority workers, or others of different national origin, in jobs for which they are not adequately trained as a band-aid to end discrimination. If anything is to destroy the self-esteem of many workers, heightening anger and discrimination among fellow employees when some members of the workforce are unable to carry their fair share of the load.

Mayor Koch’s comments cut to the heart of the matter.

It makes absolutely no sense to that Congress should support programs that discriminate against the poor Asians from San Francisco, or the poor whites from anywhere in America simply because they don’t fall into the class of protected minorities.

Mr. President, a few days ago I came across a scholarly paper titled, “Equally and the American Creed: Understanding the Affirmative Action Debate,” by Seymour Lipset. By the way, this paper was sponsored by the Democratic Leadership Council. The central thesis of this paper was summed up in this passage:

Affirmative action policies—hiring or promoting people by the numbers or group identity—challenge the basic American tenet that rights to equal treatment should be safeguarded for all. Remedial preferences should not be given to groups. And given the strength of individualism in American tradition, it is not surprising that most Americans, including a considerable majority of women and a plurality of blacks, have continued to reject applying emphasis on protected rights to groups. It is crucial that civil rights leaders, liberals, and Democrats rethink the politics of special preference. The American Left from Jefferson to Humphrey stood for making education opportunities or opportunities for employment programs to ensure that all deprived persons—without regard to race, color, religion, sex, or national origin—have the opportunity to achieve their full potential.

We should focus our attention on assisting minorities who have suffered from unequal opportunity * * * never excluding from programs others equally poor or deprived simply because they are white. The solution is not to place unqualified minority workers, or others of different national origin, in jobs for which they are not adequately trained as a band-aid to end discrimination. If anything is to destroy the self-esteem of many workers, heightening anger and discrimination among fellow employees when some members of the workforce are unable to carry their fair share of the load.

By Mr. HELMS:

S. 27. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutionally protected prayer in schools; read the first time.

VOLUNTARY SCHOOL PRAYER PROTECTION ACT

Mr. HELMS. Mr. President, like so many others, I often contemplate the obvious fact that America is in the midst of an historic struggle between...
those who, on the one hand, yearn for a restoration of the heritage of traditional values envisioned by our Founding Fathers and those who, on the other hand, contend that anything goes no matter how destructive—especially when the Federal Government finances it. Seldom mentioned is the fact that the Federal Government has not only forcible extracted that which it forcibly extracts from the pockets of the American taxpayers back home in our States.

So, what we have is a struggle for the soul of America. How it is finally resolved will determine whether America will move forward—or end up on history's ash heap, as have so many nations before us.

The American people are more aware than ever before about what is at stake. They are sick and tired of crime, pornography, mediocre schools, and politicians who cater to every fringe group and perverse lifestyle. The voters resoundingly and unmistakably demonstrate their anger at the pols this past November.

Mr. President, Reader's Digest presaged this public outcry when it published an article a few years ago titled "Let Us Pray", in which the magazine reported the results of a Wirthlin poll. That poll found that 90 percent of the American people resent the Supreme Court's ruling that it is unconstitutional for prayers to be offered at high school graduations. The poll showed that 75 percent of Americans favor public school prayer. Yet a profound impression was found in the subtitle which read "Why can't the voice of the people be heard on prayer in schools?"

As Reader's Digest pointed out, those pro-prayer opinions "were expressed by Democrats, Republicans, blacks and whites, rich and poor, high-school dropouts and college graduates—reflecting a profound disparity between the citizenry and the Court." Yet, despite this mass library, the liberals in Congress and in the media prate that the Constitution somehow forbids governmental establishment of religion and ipso facto prayer in school cannot be permitted.

Well, the voice of the people was unmistakable this past November 8. The question before us now is whether we in the Congress are going to really listen to them for a change—that's the real change the people voted for.

For instance, seldom is it heard on the floor of the House that the Constitution also forbids governmental restrictions on the free exercise of religion, or that the Constitution protects students' free speech—whether religious or not—and that student-initiated, voluntary prayer expressed at an appropriate time, place and manner has never been outlawed by the Supreme Court.

But back to the Reader's Digest question: "Why can't the voice of the people be heard on prayer in schools?" The simple answer is that many of the Nation's politicians have misled—and continue to mislead—the voters about where they really stand on the issue of school prayer. They go home at election time—some even run campaign commercials—proclaiming their staunch support for school prayer and traditional family values. Back in Washington they vote otherwise.

Yet who among the people are in Washington, they knowingly and willingly allow the liberal Democratic leadership in the Congress to beat back school prayer time after time. That's so these so-called moderate family values politicians can vote with a wink and a nod for school prayer on the floor of the House and Senate and then go home again and lie to their constituents again about how strongly they support school prayer when they are in Washington.

Mr. President, last year was a perfect example of the continuing deceit politicians have perpetrated against the voters. The liberal Democrats in Congress—and specifically the senior Senate and House members on the issue of school prayer not once, but twice last year, despite overwhelming 3 to 1 votes for school prayer both in the House and Senate. However, with the help of the press and the other news media, they have tricked and misled the voters in the dark about who the true voices are in support of school prayer when they walked into the voting booths this past November.

But no matter how the media tries to explain away, for once the people—voters—were not fooled in November. They know who has been responsible for wrecking the American dream over the past four decades—a dream which was built on individual responsibility and an acknowledgement of God's governance in the affairs of men.

Mr. President, my friend Bill Bennett told me recently that America has become the kind of country that civilized countries once dispatched missionaries to centuries ago. "Do we care about the kids up the street and the classrooms, if we care about the long term survival of our Nation—how could there be anything more important for Congress to protect than the right of America's children to participate in voluntary, constitutionally-protected prayer in their schools?"

We already spend more money per pupil than any other industrialized country and what has it bought? We have the lowest math scores, the lowest language scores, and the highest crime rate of any of our major trading partners. We can spend all the money we can tax out of people and it will not improve our children's achievement, happiness, or well-being one whit unless all we take traditional morality out of government-imposed exile and restore it to the prominence and respect it once enjoyed.

As Michael Novak of the American Enterprise Institute has pointed out:

There is no issue in American life in which the public will so strongly and the political establishment is so heedless. The cultural and political elites have simply ignored the overwhelming support of the American people for voluntary school prayer—indeed for the role of religion and faith in the nation's life.

Mr. President, since the sea change wrought by the November elections, there has been a great deal of discussion concerning a constitutional amendment regarding school prayer. I must admit that I was a bit shocked by the number of so-called friends of school prayer who have changed their tune now that it appears Congress might actually be able to enact such an amendment—or at least see it brought up for discussion on the House and Senate floors. Some groups now question either the wisdom of, or the need for, a Constitutional amendment while other groups are wrangling over the proper wording for such an amendment.

However, before we get mired in myriad debates about a Constitutional amendment, Congress can do something immediately to protect school prayer. Congress can enact into the law the School Prayer Act. Last year overwhelming passed the Senate once, 75-22, and the House twice, 367-55 and 345-64. Senators will recall that this was the amendment which was dropped in the closing 60 seconds of a conference with no debate, no discussion, no vote, just a wink and a nod between the Senator from Massachusetts and his counterpart on the House side.

That amendment, offered by Senator LOTT and this Senator would have prevented public schools from prohibiting constitutionally-protected, voluntary student-initiated school prayer. The amendment did not, as was falsely asserted, mandate school prayer. It did not require schools to write any particular prayer, nor did it compel any student to participate in prayer. It did not stop school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of free speech in the schools.

Again, what the amendment would have done is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally-protected right to lead, or participate in, voluntary prayer in school.

And that is why the amendment met with such vehement opposition and subterfuge. It exploded the myth popular among school administrators and bureaucrats—a myth perpetuated by liberal groups such as the American Civil Liberties Union—that the United States Constitution somehow prohibits every last vestige of religion from the public schools. However, even the ACLU when it gets to court acknowledges that voluntary, student-initiated school prayer may be protected under the First Amendment basis that students' other non-religious free speech is protected—i.e. as long as the...
speech in question is uttered in an appropriate time, place, and manner, such that the speech does not materially disrupt the school day.

The Helms-Lott amendment exploded the old school prayer myths, those opposed to school prayer at all costs switched to the argument that it was unfair to school administrators in the position of having to be constitutional scholars in order to determine what religious activities must be allowed to prevent their federal funding from being put at risk. They missed the whole point—which was that school administrators for almost 3 decades have already been acting as constitutional scholars—and bad ones at that—by uniformly prohibiting all students from praying or exercising their religion at school in any way at any time.

Why is it that under the liberals' double standard they are so concerned that a school district's funding might be adversely affected by a school official's constitutional ignorance, but they don't give one whit that an individual child's constitutional rights might be trampled on by such constitutional ignorance on the part of school officials? So much for the liberals always casting themselves as the eternal defenders of the individual against the powers of the state.

The answer is that contrary to the neutrality they profess about religious issues, liberals are in fact virulently antireligious and have taken sides in the cultural war against America's—and the founding fathers—Judeo-Christian traditions.

Mr. President, that is why I am introducing the Helms-Lott amendment as a bill in the 104th Congress to be known as the "Voluntary School Prayer Protection Act."

I reiterate that the intent of the bill is to counteract the unbalanced pressure currently being exerted on school boards by the ACLU and their legal allies, groups which are in the legal driver's seat as far as this issue is concerned. They sweep down on any offending school district and threaten its official with a law suit if any kind of voluntary student-initiated prayer or religious activity is even rumored.

Under the proposed legislation, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students' rights to voluntarily pray in the schools. Schools for the first time would be faced with some real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill thus creates a complete system of checks and balances to ensure that school districts do not shortchange their students one way or the other.

Mr. President, the bill would ensure that student-initiated prayer is treated the same as all other student-initiated free speech—which the United States Supreme Court has upheld as constitutionally-protected as long as it is done in an appropriate time, place, and manner such that it "does not materially disrupt the school day." [Tinker v. Des Moines School District, 393 U.S. 503.] George Washington's final counsel—and warning—to the nation is significant and just as relevant today as 200 years ago. Washington counseled the new nation that:

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the Record.

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

S. 27
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 "Voluntary School Prayer Protection Act."

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONALLY-PROTECTED SCHOOL PRAYER.
(a) IN GENERAL.—Notwithstanding any other provisions made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutionally-protected prayer in public schools by individuals on a voluntary basis.
(b) LIMITATION.—No person shall be required to participate in prayer or influence the form or content of any constitutionally-protected prayer in public schools.

By Mr. HELMS:
S. 28 A bill to protect the lives of unborn human beings, and for other purposes; read the first time.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, 2 years ago and on occasions prior to that, I have offered the Unborn Children's Civil Rights Act. Today, as the 104th Congress is beginning its work, I hope that all senators will give thought to the need to put an end to the legalized slaughter of innocent, helpless babies.

The Unborn Children's Civil Rights Act proposes four things:
First, to put Congress clearly on record in declaring that (1) every abortion destroys deliberately, the life of an innocent, helpless baby.
Second, this legislation will prohibit Federal funding for abortion, and for the promotion of abortion. Further, the legislation proposes to defund abortion permissively, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.
Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by prohibiting discrimination, at all federally-funded institutions, against citizens who as a matter of conscience object to abortion and (2) curtailing attorney's fees in abortion-related cases.

Fourth, this legislation proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, if even the warning was applicable that those who cannot remember the past are condemned to repeat it—this is it. Fifty years ago, millions of European Jews and others died at the hands of Hitler's Nazis. Today many forget that horror—and the lesson that all human life is sacred.

We are today reliving another kind of holocaust, by another name. It is called abortion, but it is the same horrible fate—except that now, in our time, it is being met by millions of unborn children in America. Killing unborn babies has become a sort of tool-of-convenience in today's permissive society. At latest count, more than 32 million unborn children have been deliberately, intentionally destroyed every day as a result of legalized abortion.

The answer is simple, Mr. President. Even though Roe versus Wade was and is an unconstitutional decision, Congress has been unwilling to exercise its constitutional rights to check and balance a Supreme Court that deliberately destroys the lives of the most defenseless, most innocent humanity imaginable.

So, Mr. President, Roe versus Wade still stands and the holocaust continues. It is not a failure of the constitution, it is a failure of the Supreme Court—but, more importantly, it is the failure of Congress for 22 years to do its duty, to overturn Roe versus Wade. Untold millions of innocent, helpless little ones have been slaughtered.

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. 28
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 "Unborn Children's Civil Rights Act."

SEC. 2. FINDINGS.
Congress finds that—
(1) scientific evidence demonstrates that the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling, referral, or any other administrative arrangements for such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 7. LIMITATION ON CERTAIN ATTORNEYS' FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States. In any such case, the Supreme Court, notwithstanding any other provision of law.

By Mr. HELMS:

S. 29. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services for other purposes; to read the first time.

FEDERAL ADOPTION SERVICES ACT OF 1995

Mr. HELMS. Mr. President, a significant question about the use of the American taxpayers' money is: should family planning clinics, funded under Title X of the Public Health Services Act, be forbidden to offer adoption services to pregnant women?

My own answer is: Absolutely not. To the contrary such clinics should regard the advocacy of adopting babies, instead of deliberately destroying them, their number on responsibility. And there are numerous polls indicating that the vast majority of Americans agree.

With this in mind, I offer today the Federal Adoption Services Act of 1995, a bill that provides to permit Title X of the Public Health Services Act to permit federally-funded family planning services to provide adoption services based on two factors: (1) the needs of the community in which the clinic is located, and (2) the ability of an individual clinic to provide such services.

Mr. President, those familiar with the many Senate debates of the past regarding Title X will recall the excessive emphasis placed on preventing and/or spacing of pregnancies, and limiting the size of the American family.

I hope that this year, we can refocus this debate, to shift the emphasis to the need to affirm life rather than preventing or terminating it.

Sure, the radical feminists and other pro-abortionists will voice their usual hysterical outcries. So before they raise their voices, let's make clear what this legislation will not do. For example:

No woman will be threatened or coerced into giving up her child for adoption. Family planning clinics will not be required to provide adoption services. Rather, this legislation will make it clear that federal policy will allow, even encourage adoption as a means of family planning for the adoptive parents and for the adoptable children that are not their biological family. Combined with Federal, State and other Social Security taxes, it will amount to a shocking 55-65 percent tax bite, and sometimes even more: Federal tax—15 percent, FICA—7.65 percent, earnings tax penalty—33.3 percent. Obviously, this earnings cap is a tremendous disincentive to work. No one who is struggling along at $11,000 a year wants to face an effective marginal tax rate which exceeds 55 percent.

Mr. President, this is unquestionably an issue of fairness. No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be
productive. The earnings test does not take into account an individual’s desirability or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or face losing benefits. It is plainly age discrimination; it is plainly wrong.

There are more than 40 million American workers age 60 or older who have over 1 billion years of cumulative work experience—all going to waste. Three out of five of these people do not have any disability that would preclude them against working. Furthermore, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. They are struggling to get ahead without hitting the limit. If not for the earnings test, many more seniors would work, but the system is coercing them into retirement and idleness.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been met, a person earning just one more hour would find the after tax value of that wage dropping to only $2.20. A person with no private pension or liquid investments—which, by the way, are not counted as “earnings”—from his or her work experiences in order to meet the most basic expenses, such as shelter and food. Health care costs, rising at an astronomical rate, are another expense many elderly Americans have trouble meeting. There is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income.

Finally, it is simply outrageous to pursue a policy that keeps people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from helping to fill that need? The U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, “retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000.” We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become more and more difficult to recover.

The Social Security earnings limitation test reduces the Social Security benefits of senior beneficiaries, if their earned income from work is above a certain sum. After Social Security beneficiaries reach age 70, they are no longer subject to the test. In 1995, the maximum amount of money that beneficiaries, between the ages 65 and 69, can earn without reducing the amount of their Social Security benefits is $11,280. For every $3 a person earns over this limit, $1 is withheld from his or her benefit. The exempt amounts are currently adjusted each year to rise in proportion to average wages in the economy.

I am optimistic this Congress will pass and enact this important legislation to repeal the earnings limitation test. I encourage my colleagues to join with me in this effort to free seniors to continue to work, without penalty, for as long as they choose.

Mr. BREAUX (for himself and Mr. JOHNSON):

S. 32. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the production of oil and gas from existing marginal oil and gas fields and from new deepwater gas wells; to the Committee on Finance.

S. 33. A bill to amend the Oil Pollution Act of 1990 to clarify the responsibility requirements for offshore facilities.

S. 34. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

Mr. BRYAN. Mr. President, today I am pleased to join as an original co-sponsor of Senator JOHN MCCAIN’s “Older Americans’ Freedom to Work Act” to repeal the Social Security earnings limitation test.

I understand the frustration of seniors who want to work without being penalized by a reduction in their Social Security earnings limitation test, and since coming to the Senate in 1988, I have supported efforts to repeal this test. During the last Congress, Senator McCAIN tried to add this same bill as an amendment to the Unemployment Compensation Act. Unfortunately, only 45 Senators joined me in voting in favor of the amendment.

As seniors live healthier and longer lives, we have a tremendous human resource that wants to continue to play a positive role in our workforce. These seniors represent incredible knowledge and work experience, skills our Nation very much needs to remain competitive both at home and abroad. But for those seniors, ages 65 through 69, who want to contribute by continuing to work, their decision to remain in the workplace means they face reduced Social Security earnings limitation test. We should not place such financial penalties in their way. The Social Security earnings limitation test must go.

The Social Security earnings limitation test reduces the Social Security benefits of senior beneficiaries, if their earned income from work is above a certain sum. After Social Security beneficiaries reach age 70, they are no longer subject to the test. In 1995, the maximum amount of money that beneficiaries, between the ages 65 and 69, can earn without reducing the amount of their Social Security benefits is $11,280. For every $3 a person earns over this limit, $1 is withheld from his or her benefit. The exempt amounts are currently adjusted each year to rise in proportion to average wages in the economy.

I am optimistic this Congress will pass and enact this important legislation to repeal the earnings limitation test. I encourage my colleagues to join
An important part of our strategy to assure the availability of domestic supply is the development of the Outer Continental Shelf [OCS], in particular areas in the deep water, well over 1,200 feet. The OCS contains almost one quarter of all estimated remaining domestic oil and gas reserves; much of this is in deep water. According to estimates from the Department of the Interior, there are 11 billion barrels of oil equivalent in the Gulf of Mexico in waters of a depth of 200 meters or more. The costs of finding and producing oil and gas in deep water areas is astronomical; for example, a state-of the-art rig deep in the water, over 3,000 feet, can cost more than $1 billion, as opposed to $300 million for a conventional fixed leg platform in 800 feet of water.

Based on similar large-scale projects, the development of the deep water of the Gulf of Mexico would create tens of thousands of jobs in the oil industry and a multiple of that in the general economy. That would be required to find, develop, and produce 5 to 10 billion barrels of oil could range from 50 to 100 billion dollars. Since various studies have estimated that every billion dollars worth of investment could create about 1,000 jobs, a deep water development effort could ultimately create up to one million jobs.

Under current economic conditions, most oil and gas potential in the deep water Gulf of Mexico will not attract investment. Due to the high cost of finding and producing hydrocarbons in a hostile deep water environment. Therefore, I am introducing legislation to provide a $5-per-barrel credit for the first 3 barrels of domestic crude and natural gas produced from a property located under at least 400 meters of water. Unlike the general business credit, the deep water credit cannot be carried back 3 years. Unused credits can be carried forward 15 years. The credit can be used to offset the corporate alternative minimum tax since many companies in the oil production and services industries are subject to the minimum tax.

Mr. President, I must emphasize that I have designed the credit to minimize revenue loss to the Government. Since there is typically 5 to 8 years between discovery and production of oil and gas in commercial quantities, there should not be a negative near-term impact on the exploration 

Two hundred years later, the deep water credit could raise revenue. During this interim time period, significant investments will be made to assure that the oil and gas are brought to market. Suppliers, contractors, and employers will pay taxes on the additional income generated by these development activities. Their increased spending will increase the earnings and stimulate employment in many industries throughout the United States.

Also, contrary to popular belief, oil and gas production on the Outer Continental Shelf is environmentally sound. The most recent data obtained from the Minerals Management Survey shows that only 2 percent of the world’s oil spills are the result of Outer Continental Shelf [OCS] development. In contrast, 45 percent of the world’s oil spills come from transportation related, or tanker spills. The more we import, the higher risk there is of large oil spills.

GEODETICAL AND GEOPHYSICAL EXPENSES

One very important fact about the domestic oil and gas industry that is too often overlooked, is that it is an extremely high-technology industry. Particularly now that reserves are harder to recover, exploring and producing these remaining reserves requires very sophisticated technology. Some of the most sophisticated technology used in any industry, even more sophisticated than that used in the air and space industry, is the use of 3-D seismic technology by the oil and gas industry. The basic purpose of these tools are to survey and interpret subsurface geological relationships.

Obviously, this very sophisticated technology is extremely costly. Currently, this kind of technology is the most economically viable for the major oil and gas producers. Independent oil and gas producers, who produce 31 percent of our domestic natural gas production, but 60 percent of domestic natural gas production, need greater financial access to this type of equipment. Therefore, this legislation that I am introducing today would allow oil and gas producers to expense a proportion of their geophysical [G&G] costs to expense geological and geophysical [G&G] costs to expense those costs rather than capitalize them regardless of whether a will is producing or dry. I understand the administration is also considering supporting a similar initiative on which I hope to work with them.

MARGINAL WELL PRODUCTION

Last spring, a bipartisan group of House and Senate Members met with President Clinton to outline our concerns about the domestic energy industry. The president was given a list of proposals that was developed in consultation with the oil and gas industry. That list included the deepwater credit, the G&G proposal and a new idea for a marginal well production credit for new and existing wells.

The third bill I am introducing today would create a new set of tax incentives for marginal production. Mr. President, of the nation’s 600,000 oil wells, more than 450,000 produce less than 3 barrels per day. These small wells are extremely sensitive to oil prices. Between October 1989 and March 1990, when prices plunged more than 40 percent placing in jeopardy these wells. Energy policy is needed that protects this vital source of production during periods of low prices.

There are two main elements of this proposal. First, for existing wells, the bill would provide a maximum $3 per barrel tax credit for the first 3 barrels of daily production from an existing marginal well—a well that produces less than 15 barrels per day or produces...
heavy oil. For natural gas, the bill would provide a maximum $60.00 per thousand cubic feet [MCF] tax credit for the first 18 MCF of natural gas produced per day from a marginal gas well—a well that produces less than 90 MCF per day. In addition, the definition of marginal wells would be expanded to include high water cut properties.

The second major element of this bill is the creation of a new credit for newly drilled marginal wells. For those wells drilled after December 31, 1994 the following new credits would apply. Oil producers would receive $3 per barrel for the first 15 barrels of daily oil production. Natural gas producers would receive a maximum credit of $5.00 per MCF for the first 90 MCF of daily natural gas production.

To make sure that the tax incentives are truly targeted to when the price of oil and gas are the most threatening to domestic production, the benefit of these credits would phase out for oil when the price of oil is between $14 and $20 per barrel and for natural gas when the price is between $2.49 and $3.55 per MCF.

FINANCIAL RESPONSIBILITY REQUIREMENTS OF THE OIL POLLUTION ACT OF 1990

The Oil Pollution Act of 1990 was passed in response to the Exxon Valdez oil spill and was designed to prevent oil spills if oil spills do occur to make sure sufficient financial resources are available to clean up those spills. The statute establishes liability limits and requirements of financial responsibility to meet those limits. However, recent interpretation of the statute by the Department of the Interior indicates that legislative changes are needed to meet congressional intent in the area of financial responsibility for onshore facilities and to correct the overly burdensome financial responsibility requirements for offshore facilities that threaten the viability of many off-shore producers.

When the Congress adopted the Oil Pollution Act, it clearly intended that onshore facilities would not have to demonstrate the same degree of financial responsibility. However, a recent Interior Department Solicitor’s opinion indicates that due to the interrelationship of several definitions in the act, that they interpret the statute to require financial responsibility be demonstrated by onshore facilities. Mr. President, clearly, Congress did not and does not want to require small marina operators or other onshore facilities to demonstrate $150 million of financial responsibility. Therefore, the bill I am introducing today clarifies the congressional intent on the law with respect to financial responsibility for onshore facilities.

Also, I have proposed to give the Minerals Management Service the authority to make a case by case determination of financial responsibility between $35 million and $150 million based on the amount of environmental risk posed by the facility. Current law is inflexible on this point, all offshore facilities must provide evidence of $150 million regardless of the amount of oil they handle, their history of oil spills, or other factors that would demonstrate the true risk of oil spill. In addition, my bill would provide that any producer that handles less than 1,000 barrels of oil at any one time would be exempt from the financial responsibility requirement. Both the $35 million financial responsibility level and the 1,000 barrels were included in prior law—the Outer Continental Shelf Lands Act. Unless, this flexibility is provided for offshore facilities, the Oil Pollution Act requirements will freeze the current law with its artificial liability that drill the majority of wells offshore. These onerous requirements, unless fixed, will lead to a loss of jobs in the oil and gas industry.

This bill is a starting point. I expect the Domestic Petroleum Council to develop specific recommendations on the issue raised by the Oil Pollution Act in the near future. I look forward to seeing those and to working to further revise this legislation. There are other issues that we may have to address such as a liability cap on which I hope we can get specific recommendations by the council.

Mr. President, I hope my colleagues will have an opportunity to support this legislation so that we can act on these proposals during this Congress.
individuals, but also that individuals need to provide a helping hand to assist in getting a job, which is more than the current system can say. My bill says that government has the responsibility to ensure that needy children will receive assistance getting connected to a job. Frankly, I think the most compassionate thing we can do for these children is to help their parents get a job, which is more than the current system can say. My bill says that government has the responsibility to provide a helping hand to assist individuals, but also that individuals have the responsibility to use the assistance to help themselves.

As a final note, let me point out that this plan would remove the requirement that families break up before they can get assistance. With this block grant, States can help families who need help before they break up. This is one more reason why we think that the bill is more consistent with American values—the values of compassion, work, family, and responsibility—than our current welfare system.

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. 36

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 "Welfare to Work Act of 1995".

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

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SEC. 2. FINDINGS.

The Congress finds the following:

(1) The current welfare system is broken and requires replacement.

(2) The welfare system is broken and requires replacement.

(3) Since State and local governments know the best methods of providing welfare assistance to those in need, the Federal Government should provide additional support to help welfare-to-work programs be more successful.

Economic circumstances and people in Kenosha, WI, are different from those in Ottumwa, IA. Portland, ME, is not San Diego, CA. A one-size-fits-all welfare plan designed in Washington cannot work for all these communities. By introducing this bill, we are saying that it is time to face the fact that the answer to something as hard as helping people get a job is not going to be developed in Washington—the many answers we need are going to come from communities throughout this country. State and local governments have been dealing with the problems of welfare reform for some time and are better prepared to deal with this problem than the Federal Government.

Some may think that I’m bashing the Federal Government when I say that I don’t think it can solve this problem. I’m not. I’m simply saying that the efforts Washington is good at, such as the relatively straightforward tasks of collecting payments for Social Security and sending out the checks our elderly so depend on. And there are some things our Federal Government is not good at, such as trying to help individuals get back on their feet. This is because so much of the answer to getting welfare beneficiaries into jobs depends on an individual’s circumstances and the local situation—both of which are impossible to completely account for when developing a comprehensive national solution.

The crucial difference between my bill and others you may hear about is this: instead of adding yet another layer to the already complex welfare system we have today, we admit that it needs to be abolished and completely replaced, and propose to do so with a simple program, run by States, that moves people to work.

Many of you may be concerned that welfare reform plans need to show compassion for children. I think this proposal meets that test: it ensures needy children will get nutrition assistance through WIC and that their parents will have the assurance that they will get assistance getting connected to a job. Frankly, I think the most compassionate thing we can do for these children is to help their parents get a job, which is more than the current system can say. My bill says that government has the responsibility to provide a helping hand to assist individuals, but also that individuals
(A) The State work percentage for the preceding fiscal year is greater than the State work percentage for the second preceding fiscal year; or
(B) more participants became ineligible for participation in the State welfare to work program during the preceding fiscal year due to increased income than became ineligible for participation in the program in the second preceding fiscal year as a result of increased income.

(3) SECRETARIAT REVIEW.—
(A) IN GENERAL.—If a State application for a grant under this Act is not automatically approved under paragraph (2), the Secretary shall approve the application upon a finding that the application—
(i) is based on an adequate explanation of why the State work percentage or the number of participants who became ineligible for participation in the State welfare to work program due to increased income during the preceding fiscal year did not exceed such State work percentage or the number of participants who became ineligible for participation in the program in the second preceding fiscal year; and
(ii) provides a plan of remedial action which is satisfactory to the Secretary.

(B) ALLOCATION AMOUNTS.—An adequate explanation under subparagraph (A) may include an explanation of economic conditions in the State, failed program innovations, or other pertinent circumstances.

(4) RESUBMISSION.—A State may resubmit an application for a grant under this Act until the Secretary finds that the application meets the requirements of paragraph (3)(A).

SEC. 6. STATE WELFARE TO WORK PROGRAM DESCRIBED.

(a) In General.—A State welfare to work program described in this section shall provide that—

(1) during fiscal year 1996, the State shall designate individuals who are eligible for participation in the program and such individuals shall include at least those individuals who received benefits under the State plan approved under part A of title IV of the Social Security Act during fiscal year 1995; and
(2) during fiscal year 1997 and each subsequent fiscal year, the State shall designate individuals who are eligible for participation in the program (as determined by the State), with priority given to those individuals most in need of such services; and
(3) the designee shall be designed to move individuals from welfare to self-sufficiency and may include—

(A) job placement and training;
(B) supplementation of earned income;
(C) nutrition assistance and education;
(D) education;
(E) vouchers to be used for rental of privately owned housing;
(F) child care;
(G) State tax credits;
(H) health care;
(I) support services;
(j) community service employment; or
(k) any other assistance designed to move such individuals from welfare to self-sufficiency, and may include—

(3) the designee shall be designed to move individuals from welfare to self-sufficiency; and

(b) No Entitlement.—Notwithstanding any criteria a State may establish for participation in a State welfare to work program, any funds shall not be considered to be entitled to participate in the program.

SEC. 7. STATE GRANTS.

(a) In General.—The Secretary shall annually award to each State with an application approved under section 5(c) an amount equal to—

(1) in fiscal year 1996, 100 percent of the State's base amount, and any applicable payment; and
(2) in fiscal year 1997, the sum of 80 percent of the State's base amount, 20 percent of the State's share of the national grant amount, and any applicable payment.

(b) Allocation Percentage.—

(1) IN GENERAL.—Except as provided in subparagraph (C), the allotment percentage for any State shall be 100 percent, less the State percentage.

(2) ELDERLY AND DISABLED INDIVIDUALS.—

(3) IN GENERAL.—For purposes of subsection (a), the State's base amount is equal to—

(A) for fiscal year 1996, 100 percent of the amount determined under paragraph (2); and
(B) for fiscal year 1997 and succeeding fiscal years, 99.6 percent of the amount determined under paragraph (2).

(c) Percentage of Base Amount Equal to.

(1) IN GENERAL.—The amount determined under this paragraph for a State is an amount equal to the sum of—

(A) the amount of Federal financial participation received by the State under section 403 of the Social Security Act during fiscal year 1995; and
(B) an amount equal to the sum of—

(i) the benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2011b), during fiscal year 2001 and each subsequent fiscal year, the sum of 100 percent of the State's share of the national grant amount and any applicable bonus payment.

(2) STATE BASE.

(3) IN GENERAL.—For purposes of subsection (a), the State's base amount is equal to—

(A) in general.—For purposes of subsection (a), the State's share of the national grant amount for a fiscal year is equal to the sum of the amounts determined under paragraphs (2) and (3); and
(B) for fiscal year 1997 and succeeding fiscal years, 99.6 percent of the amount determined under paragraph (2).

(d) ANNUAL DETERMINATION.—The amount determined under this paragraph is the amount which bears the same ratio to one-half of the State's base amount, 40 percent of the State's share of the national grant amount, and any applicable bonus payment as the product of—

(i) the population of the State; and
(ii) the allotment percentage of the State (as determined under paragraph (4)), bears to the sum of the corresponding products for all States.

(e) STATE UNEMPLOYMENT MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the product of—

(i) the population of the State; and
(ii) the allotment percentage of the State (as determined under paragraph (4)), bears to the sum of the corresponding products for all States.

(f) STATE PER CAPITA INCOME MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the product of—

(i) the population of the State; and
(ii) the allotment percentage of the State (as determined under paragraph (4)), bears to the sum of the corresponding products for all States.

(g) ECONOMIC NEED.—The amount determined under this paragraph is equal to the sum of the amounts determined under subparagraphs (A) and (B) for the State.

(h) STATE PER CAPITA INCOME MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the product of—

(i) the population of the State; and
(ii) the allotment percentage of the State (as determined under paragraph (4)), bears to the sum of the corresponding products for all States.

(i) BONUS PAYMENT.—Beginning with fiscal year 1997, the Secretary may use 0.4 percent of the sum of the amounts determined under subsection (b)(2) for all States to award additional bonus payments in recognition of those States which have the highest or most improved State work percentage as determined under section 5(b)(2)(B). The Secretary shall designate the lead State for each fiscal year and shall award each lead State a special Presidential award.

SEC. 8. STATE MAINTENANCE OF EFFORT.

(a) TERMINATION OF AFDC AND JOBS PROGRAMS.

(1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY " Sec. 418. The authority provided by this part shall terminate on October 1, 1995."

(2) JOBS.—Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY " Sec. 418. The authority provided by this part shall terminate on October 1, 1995."

(b) FOOD STAMP PROGRAMS.

(1) ELDERLY AND DISABLED INDIVIDUALS.—

(2) IN GENERAL.—The Secretary shall designate that the amounts determined under subsection (b)(2) for all States are allocated to such State with a special Presidential award.
SEC. 10. SRVITARY FOR WIC PROGRAM.

(a) IN GENERAL.—Section 13(d)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786d) is amended by striking the end thereof and inserting ``, if necessary, with respect to the receipt of aid to families with dependent children under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in lieu of the eligibility criteria and determining benefit levels only for all other individuals; and

(b) CONFORMING AMENDMENTS.—Section 17(d)(2)(A)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786d) is amended—

(1) by striking ``, if necessary, with respect to the receipt of aid to families with dependent children under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in lieu of the eligibility criteria and determining benefit levels only for all other individuals; and

(2) by striking subclause (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after October 1, 1995.

SEC. 11. SECULAR SUBMISSION OF LEGISLATIVE PROPOSAL FOR AMENDMENTS TO MEDICAID ELIGIBILITY CRITERIA AND TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing eligibility criteria for participation in the program under this section, a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in lieu of the existing eligibility criteria under section 1902(a)(10)(A)(i) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)) relating to the receipt of aid to families with dependent children under a State plan under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and any technical and conforming amendments in the law as are required by the provisions of this Act.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 37. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM TERMINATION AND DEFICIT REDUCTION ACT

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation for my-
Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DOD was particularly disappointing because it basically argued that because Project ELF may have had a purpose during the cold war, it should continue to operate after the cold war as part of the complete complement of command and control links configured for the cold war. I am hoping that OTA will also issue an independent assessment of the strategic capabilities of Project ELF, as described in the Senate-passed amendment in 1993.

I have also proposed that the Base Closure Commission (BRAC) look at Project ELF this year. I understand that in addition to military value, the BRAC will consider recommendations according to four other criteria: return on investment; the economic impact on the community; the ability of both the existing and potential receiving communities' infrastructure to support the community; and environmental impact. On all these grounds, ELF qualifies as a candidate for closure.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

Most of us in Wisconsin don’t want it anymore. Many of my constituents have opposed Project ELF since its inception, and my constituent mail today runs 8-1 against it. Congressman David Obey has consistently sought to terminate Project ELF, and in fact, we have him to thank in part for getting ELF scaled down from the large-scale project first conceived by the Carter administration. I look forward to continuing with him on this issue when he introduces a similar measure in the House this year.

As the Department of Defense and the Armed Services Committee consider budget cuts, I believe that we cannot afford to waste billions on duplicative social spending programs, devoted insufficient resources to the needed emergency－general defense budgets for fiscal year 1996. I hope they will zero out the ELF transmitting system, as I propose in this bill, and save the taxpayer $9 to $20 million a year. Given both its apparently diminished strategic value and the potential environmental and public health hazards, Project ELF is a perfect target for termination. I can only echo the words of an October 2 editorial in the Wausau Daily Herald: “ELF isn’t needed. It isn’t wanted. It’s an unwarranted expense.”

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Extremely Low Frequency Communication System Termination and Deficit Reduction Act of 1995”.

SEC. 2. PROHIBITION OF FURTHER FUNDING OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated or otherwise made available after the enactment of this Act to or for the use of the Department of Defense for the Extremely Low Frequency Communication System of the Navy.

(b) LIMITED EXCEPTION FOR TERMINATION COSTS.—Subsection (a) does not apply to expenditures solely for termination of the Extremely Low Frequency Communication System.

By Mr. HATCH (for himself, Mr. Dole, Mr. Thurmond, Mr. Simpson, Mr. Grassley, Mr. Kyl, Mr. Abraham, Mr. Nickles, Mr. Gramm, Mr. Santorum, and Mr. Ashcroft): S. 38, to amend the Violent Crime Control and Law Enforcement Amendments of 1994, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH, Mr. President, I rise today to introduce the Violent Crime Control and Law Enforcement Amendments Act of 1995. This legislation corrects the most glaring flaws in the 1994 Crime bill, and is intended as only a first step in enacting the comprehensive anti-crime laws the American people are demanding. Each of the provisions of this bill is also included in our comprehensive Crime bill, S. 3, introduced earlier today. As with S. 3, I am pleased to be joined in this effort by the distinguished majority leader. I am also pleased that Senators Thurmond, Simpson, Grassley, Kyl, Abraham, Nickles, Gramm, Santorum, and Ashcroft have joined me as co-sponsors of this bill as well.

The people of Utah and across our Nation understand that the best crime prevention program is to ensure the swift apprehension of criminals and their certain and lengthy imprisonment. My earlier statement today set forth the details of our crime problem. Congress can do better than the legislation it passed last year. That bill wasted billions on duplicative social spending programs, devoted insufficient resources to the needed emergency－general defense budgets for fiscal year 1996. I hope they will zero out the ELF transmitting system, as I propose in this bill, and save the taxpayer $9 to $20 million a year. Given both its apparently diminished strategic value and the potential environmental and public health hazards, Project ELF is a perfect target for termination. I can only echo the words of an October 2 editorial in the Wausau Daily Herald: “ELF isn’t needed. It isn’t wanted. It’s an unwarranted expense.”

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. 38, to amend the Violent Crime Control and Law Enforcement Amendments of 1994, and for other purposes; to the Committee on the Judiciary.


Our bill also replaces the overly broad reform of mandatory minimum sentences with an approach that will insure the just imposition of those sentences. Thus, while providing less leeway to judges to avoid imposing minimum mandatory sentences than the 1994 Crime bill, it allows such discretion where it is merited. The truly first-time, non-violent, low-level offenders deserving all the benefits of leniency will be treated more justly under our legislation, without providing a windfall to career drug dealers. I should note that our provision was overwhelmingly supported by the Senate in the last Congress.

Lastly, we also include in our bill provisions for restitution to victims of federal crimes to ensure that crime victims receive the restitution they are due from those who have preyed on them.

With this legislation, we have an opportunity to begin to fulfill our commitment to the American people. It is only a start, but it is a measure that I believe this body could pass quickly. We must at the same time continue our efforts to pass a comprehensive crime bill that addresses the American people’s concern over rampant violent crime in a way that empowers them and that respects the competencies and powers of the State and Federal systems of government. Additionally, we must remain committed to ensuring that our legislation does not increase the Federal deficit.
I believe that the bills we have introduced today will give the American people the crime control legislation they demand and deserve. I urge the support of my colleagues for this important legislation.

Mr. President, I ask unanimous consent that a section-by-section summary of this bill be printed in the RECORD.

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

THE CRIME BILL

This legislation is based on Republican proposals championed during the debate on the Conference Report on the 1994 Crime Bill. The bill utilizes much of the "work" contained in the 1994 Crime Bill and strengthens prison and sentencing provisions.

Should you have questions about the bill not answered by this summary, please call Mike O'Neil or Mike Kennedy of the Judiciary Committee staff of extension 4-5225.

SECTION-BY-SECTION ANALYSIS

SEC. 1. Short Title


SEC. 2. Elimination of Ineffective Programs

Section 2 eliminates the wasteful social programs passed in the 1994 Crime Bill, including the Local Partnership Act, the National Community Economic Partnership Act and the Family Unity Demonstration Project, among many others. These programs would have wasted billions of dollars on duplicative, top-down spending programs without reducing violent crime.

Of the over $45 billion dollars saved by eliminating these programs, approximately $1 billion is redirected to prison construction and operation grants.

SEC. 3. Amendment of Violent Offender Incarceration And Truth In Sentencing Incentive Grant Program

Section 3 amends the prison grants included in the 1994 Crime Bill to insure that the funds are spent on the actual construction and operation of prisons for violent offenders and would also remove provisions tying the funds to federal mandates on state correctional systems. Specifically, the proposal would make the following changes:

The Act currently allows prison funds to be spent on alternative correctional facilities in order to "free conventional prison space." This section requires that prison grants be spent on conventional prisons to house violent offenders, not on alternative facilities.

The proposal removes from the Act a provision which would have conditioned state receipts on adoption of a comprehensive correctional plan that would include diversion programs, jobs skills programs for prisoners, and post-release assistance. These grants will be used exclusively to build and operate prisons.

The proposal amends the prisons grants allocation provisions of the Act by increasing the mandatory minimum per-state allocation and removing the Attorney General's discretionary grant authority.

SEC. 4. Punishment For Young Offenders

Section 4, Title B of the 1994 Crime Bill, which authorized $150 million in discretionary grants for alternate sanctions for criminal juveniles.

SEC. 5. Mandatory Minimum Sentences For Criminals Using Firearms

Section 5 establishes a mandatory minimum penalty of 10 years' imprisonment for anyone who uses or carries a firearm during a federal crime of violence or federal drug trafficking crime. If the firearm is discharged, the person faces a mandatory minimum penalty of 20 years' imprisonment. If death results, the penalty is death or life imprisonment.

SEC. 6. Mandatory Minimum Prison Sentences For Those Who Use Minors in Drug Trafficking Activities

Section 6 establishes a mandatory minimum sentence of 10 years' imprisonment for anyone who employs a minor in drug trafficking activities. The section also establishes a sentence of mandatory life imprisonment for a second offense.

SEC. 7. Mandatory Minimum Sentences For Persons Convicted Of Distribution Of Drugs To Minors

Section 7 establishes a mandatory minimum sentence of 10 years' imprisonment for anyone 21 years of age or older who sells drugs to a minor. The section also establishes a sentence of mandatory life imprisonment for a second offense.

SEC. 8. Penalties For Drug Offenses in Drug-Free Zones

Section 8 establishes new mandatory minimum sentences for drug offenses in drug-free zones which were omitted from the 1994 Crime Bill.

SEC. 9. Flexibility In Application of Mandatory Minimum Sentence Provisions In Certain Circumstances

Section 9 includes a narrowly circumscribed mandatory minimum reform measure that returns a small degree of discretion to the federal courts in the sentencing of truly first-time, non-violent low-level offenders below the mandatory minimum, the court would have to find that the defendant did not finance the drug sale, did not sell the drugs, and did not act as a leader or organizer.

SEC. 10. Mandatory Restitution To Victims Of Violent Crime

Section 10 amends 18 U.S.C. 3663 by mandating federal judges to order restitution to victims of their crimes.

By Mr. STEVENS (for himself, Mr. KERRY, and Mr. MURKOWSKI):

S. 39. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to establish a sustainable fisheries conservation and management program, to provide for the management of fishery resources off Alaska, and for other purposes; to designate such program as the Sustainable Fisheries Act.

Mr. STEVENS. Mr. President, I am pleased on this first day of the 104th Congress to introduce with my colleagues from Massachusetts and Alaska a bill to significantly strengthen and improve the Magnuson Fishery Conservation and Management Act.

The bill we introduce today is a continuation of the effort Senator Kerry and I began in the 103rd Congress to reauthorize the Magnuson Act—one of the most important federal laws in our home states.

Our bill includes a number of important new protections for our fishery resources and the fishermen who depend upon them. These include: (1) significant new across-the-board mandates to reduce waste in U.S. fisheries; (2) a new section specifically mandating the reduction of fishery waste in the fisheries off Alaska—-with a specific time frame that the North Pacific Council set; (3) new conflict-of-interest and recusal requirements for fishery management council members, as well as other reforms to the council process; and (4) guidelines for individual transferable quotas, or ITQs, to help define and ensure the fairness in the use of this relatively new management tool; and (5) a National Standard to ensure that conservation and management measures take into account the importance of the harvest of fish to fishery dependent communities, such as the many communities along our Alaska coast.

These are just a few of the improvements we are proposing that will help ensure the sustainability of our fishery resources for generations to come.

As chairman of the new Oceans Subcommittee, I intend to hold oversight hearings on this legislation early in the session, and look forward to working with my colleagues to complete the reauthorization process before the end of the summer.

I would like to ask that the remainder of my statement describing the bill be printed in the Record as if read, along with the text of the bill.

Waste Reduction

The bill incorporates virtually all of the operative provisions of S. 2022, the bill I introduced last year to address the problems of fishery waste in the North Pacific.

The bill would add specific definitions for "bycatch," "economic discards" and "regulatory discards" (which we in the North Pacific call prohibited species) to the Magnuson Act in order to clearly delineate between specific types of waste which may require different solutions.

The bill requires each Council to assess bycatch and to minimize the mor- e charges caused by economic and regulatory discards in each fishery which is managed by that Council.

For the North Pacific, the bill also requires the Council to incorporate provisions in its fishery management plans to reduce bycatch, economic and regulatory discards, as well as to reduce "processing waste" and to achieve full retention and full utilization by specific dates. These are the same mandates for the North Pacific and the same basic definitions as those I included in S. 2022 last year.

The bill directs the Council to take additional steps to ensure that the valuable fishery resources off Alaska are available for future generations.

In addition to provisions from S. 2022, we've also added a definition of "bycatch" to the Magnuson Act.

The bill requires each Council to include in each fishery management plan specific criteria for determining when a fishery under that Council's jurisdiction is overfished or is approaching such a condition.
The intent is to get the Councils to establish a mechanism to provide sufficient warning so that preventive measures can be put in place before any additional fisheries become overfished.

The Secretary of Commerce (Secretary) will use the criteria to report to Congress (and back to the Councils) on the health of each Council's geographical area that are overfished or approaching a condition of being overfished. Each Council will have one year to submit appropriate fishery management plans, amendments or regulations that present the overfishing of fisheries approaching that condition, and to stop overfishing and begin to rebuild fisheries that are already overfished.

If the Council fails to take action to begin this process within one year, the Secretary will be required to prepare an appropriate fishery management plan or plan amendment.

We know from current National Marine Fisheries Service data that our fisheries are not overfished. These new provisions in the Magnuson Act will make sure Alaska's fisheries remain healthy for generations to come.

**COUNCIL REFORM**

The bill includes measures to reform the Council process, perhaps the most difficult issue we've dealt with in our review of the Magnuson Act.

Our bill would prevent Council members from voting on certain matters that benefit them financially, but it does not require such widespread recusal by Council members that the Councils would be rendered ineffective. I still believe in the basic goal Senator MAGNUSON and I had for the original Act—that the Councils should be made up of the people directly affected by fishery management decisions.

Senator KERRY and I have incorporated valuable portions of other proposals, including the Administration's proposal, which was based on the existing Alaska Board of Fisheries recusal process and Senator BREAX'S proposal, in the recusal section of our bill.

The bill requires Council members to recuse themselves from voting on Council decisions that would have a "significant and predictable effect" on their financial interests. A Council decision would be considered to have a "significant and predictable effect" if there is "a close causal link between the Council decision, the recipient or potential disproportionate benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest" of the Council member.

This language will prevent Council members from voting on decisions that give a disproportionate benefit only to themselves or a minority in their gear group, but will not prevent them from expressing views or from voting on most matters on which they have expertise.

The Secretary, with the concurrence of a majority of the voting members of the Council, will select a "designated official" with Federal conflict-of-interest standards to conduct a review of Council decisions and make determinations regarding the financial interests of members. These determinations will occur at the request of the affected Council member or at the initiative of the designated official.

Any Council member can ask for a review by the Secretary of a determination, but this review will not be treated as cause for the invalidation or reconsideration by the Secretary of a Council decision. At its own discretion, the Council can choose to postpone voting on a matter until receiving the result from the Secretary's review of a determination, or could decide to reconsider a vote that had occurred if the Secretary's review was different than the designation official's determination had been.

This bill also increases Council reporting requirements, and includes a provision to require a roll call vote for the record at the request of any Council member.

**ITQS**

This bill establishes a definition and sets out general requirements for any individual transferable quota (ITQ) system. The bill prohibits the Secretary from approving any more ITQ plans until ITQ guidelines are completed based on these requirements. The Secretary would convene an advisory panel to provide recommendations for the ITQ guidelines.

The bill requires the guidelines to, among other things: (1) provide for the fair and equitable allocation of fishing privileges; (2) provide for the collection of fees, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold an ITQ; and (4) provide requirements for the effective monitoring and enforcement of ITQ systems, and provide for penalties, including the revocation of fishing privileges under ITQ systems.

The bill clearly states that an ITQ does not constitute a property right, and that no provision of law shall be construed to limit the ability of the Secretary to terminate or limit an ITQ at any time and without compensation.

The bill also specifies that holders of an ITQ may include fishing vessel owners, fishermen, crew members or other citizens of the United States, as well as United States fish processors.

Upon reviewing the October 7, 1994 version of our bill (S. 2538), a number of Alaskans expressed concerns to me about our approved provisions for the reallocation of halibut/sablefish individual fishing quota (IFQ) plan off Alaska.

The primary concerns were related to the mistaken impression that the ITQ program would allow a reallocation of halibut/sablefish quota shares (i.e. to crew members, skippers, etc.) after the initial allocation (which is taking place now), and that the bill would require the halibut/sablefish plan to include processor quotas.

Neither S. 2538 nor the bill we are introducing today, requires these things.

While the bill defines ITQs to allow the Councils to include processor shares (in addition to harvesting shares), it does not require ITQ plans to include processor shares.

Processor quotas were included because the North Pacific Council is exploring their use for the Bering Sea pollock fishery, and because doubt has been expressed by the National Oceanic and Atmospheric Administration about the Council's current authority to create processor quotas. Our bill simply clarifies that the Councils have this tool to use at their discretion—it does not require their use.

The concern that the bill would require a reallocation of halibut and sablefish quota to fish quota holders and crew members is also without basis.

The bill specifies that holders of ITQs may include crewmen (as well as skippers), but does not require that crewmen (or skippers) receive an initial allocation. While I share the concern of skippers and other crewmen—as well as future generations of Alaskans—who were left out of the initial halibut/sablefish allocation, it would not be feasible or appropriate to require the North Pacific Council to adopt a wholesale reallocation, particularly when shares will already have been purchased and sold before any reallocation could take place.

As I have mentioned, the bill we are introducing today does require the Secretary of Commerce to complete ITQ guidelines: (1) ensure the fair and equitable allocation of fishing privileges, and (2) to provide methods for allowing new entrants into ITQ fisheries.

It also requires existing ITQ plans to comply with these guidelines within 3 years.

The halibut/sablefish plan in Alaska already includes provisions to meet most of these requirements.

The plan includes provisions to require a reallocation of quota shares between vessel size categories, and to prevent the consolidation of initial quota blocks—two mechanisms which help provide for new entrants.

The "fair and equitable allocation" requirement for ITQs in our bill is already a general requirement in the National Standards section of the existing Magnuson Act. Because the Secretary has already approved the qualifying criteria for the halibut/sablefish plan under this National Standard, it would be extremely difficult to impose the specific "fair and equitable" requirement we have added for ITQs.
The bill would require that any buyout program ensure that vessels or permits cannot reenter the fishery. This buyout section authorizes Councils to implement a fee system to pay for the buyout, but also authorizes the Federal Government to pay for up to 50 percent of a buyout.

The Federal Government could pay up to 75 percent of this type of relief.

Recently, the Secretary of Commerce used existing authority to provide relief to New England and Pacific Northwest fishermen.

These new Magnuson Act provisions, in addition to providing needed guidance for such relief, would help to ensure that affected States and fishermen also contribute to relief efforts and buyout programs.

I am aware of the concerns of some of my colleagues about these particular provisions, and look forward to working with them to address their concerns before the Commerce Committee marks up this bill.

OTHER PROVISIONS

I will briefly mention some of the other improvements to the Magnuson Act included in our bill.

The bill simplifies the review process by the Secretary of fishery management plans and amendments by eliminating a preliminary evaluation required under current law.

The bill also would provide a framework for Secretarial review of proposed regulations, giving the Councils greater certainty that regulations and regulatory amendments will be implemented in a timely manner.

The bill also includes provisions providing for the increased protection of fishery habitat essential to the life cycles of fish stocks.

I look forward to working with Senator KERRY, our new Commerce Committee Chairman and Ranking Member, and with our other colleagues to complete this reauthorization process.

I ask that the complete text of the sustainable Fisheries Act be printed in the RECORD.

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

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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 “Sustainable Fisheries Act.”

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

Sec. 1. Short title; table of contents.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.

Sec. 102. Findings; purposes; policy.

Sec. 103. Definitions.

Sec. 104. Authorization of appropriations.

Sec. 105. Highly migratory species.

Sec. 106. Foreign fishing.

Sec. 107. Permits for foreign fishing.

Sec. 108. Large-scale driftnet fishing.


Sec. 110. Regional fishery management councils.

Sec. 111. Fishery management plans.

Sec. 112. Plan review and implementation.

Sec. 113. Ecosystem management.

Sec. 114. State jurisdiction.

Sec. 115. Prohibited acts.

Sec. 116. Civil penalties and permit sanc tions.

Sec. 117. Enforcement.

Sec. 118. North Pacific fisheries conservation.

Sec. 119. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.

Sec. 202. Registration and data management.

Sec. 203. Data collection.

Sec. 204. Observers.

Sec. 205. Fisheries research.

Sec. 206. Incidental harvest research.

Sec. 207. Repeal.

Sec. 208. Clerical amendments.

TITLE III—FISHERIES STOCK RECOVERY FINANCING

Sec. 301. Short title.

Sec. 302. Fisheries stock recovery refinancing.

Sec. 303. Federal financing bank relating to fishing vessels and fishery facilities.

Sec. 304. Fees for guaranteeing obligations.

Sec. 305. Sale of acquired collateral.

TITLE IV—FISHERY MANAGEMENT AND DEVELOPMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this title an amendment or re peal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to the section or other part of the Magnu son Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a) and insert ing the following:

“(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.”;

(2) by inserting “to facilitate long-term protection of essential fish habitats,” in sub sec tion (a)(6) after “sustainable fisheries”;

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

“(9) One of the greatest long-term threats to the viability of commercial and recre ational fisheries is the continuing loss of marine, estuarine, and other aquatic habi tats on a national level. Habitat consider ations should receive increased attention for

VESSEL AND PERMIT BUYOUT PROGRAMS/ EMERGENCY RELIEF

The bill contains important new sections authorizing vessel and permit buy-back programs, and creating a relief program for commercial fishery failures which occur beyond the control of the fishery management councils, or for unknown reasons.

Section 315 of the bill authorizes the Secretary, with the concurrence of a majority of the appropriate Council, to develop and implement a program to buy out fishing vessels or permits.
The conservation and management of fishery resources of the United States; (4) by inserting "in a non-wasteful manner" in subsection (b)(6) after "such development"; and (5) by striking the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted by the United States, licensees, or other authorities that affect or have the potential to affect such habitat.".

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 1821) is amended—
(1) by redesignating paragraphs (2) through (32) as paragraphs (3) through (33) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including, but not limited to, economic and regulatory discards;"

(2) by redesignating paragraphs (7) through (33) as paragraphs (39) through (40), respectively, and inserting after paragraph (6) as redesignated the following:

"(7) The term 'economic discards' means fish which are harvested by a fishing vessel, but which are not returned to the fishing vessel which harvested them because they are of an undesirable size, sex or quality, or for other economic reasons.

"(8) The term 'essential fish habitat' means any area essential to the life cycle of a stock of fish, or to the production of maximum sustainable yield of one or more fishery resources as managed under this Act.

"(9) The term 'fishery dependent community' means a community which is substantially dependent on the harvest of fishery resources to meet social and economic needs.

"(10) The term 'fishery management plan' means any system for controlling fishing effort or process a quantity of fish under a unit or quota share that represents a level of effort over a specified period or that may be transferred in whole or in part for any purposes of carrying out the provisions of this Act, in such a manner as to effect a level of harvest or processing which is compatible with the principles of sustainable yield.

"(11) The term 'fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented' in paragraph (38), as redesignated, and inserting "regulated under this Act"; and

(12) by redesignating paragraph (40) as redesignated, as (41), and inserting after paragraph (39) the following:

"(40) The term 'fishing vessel subject to the jurisdiction of the United States' has the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1963(c))."

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums (of which 15 percent in each fiscal year shall be used for enforcement activities):

"(1) $102,000,000 for fiscal year 1993;

"(2) $106,000,000 for fiscal year 1994;

"(3) $143,000,000 for fiscal year 1995;

"(4) $147,000,000 for fiscal year 1996;

"(5) $151,000,000 for fiscal year 1997;

"(6) $155,000,000 for fiscal year 1998;

"(7) $159,000,000 for fiscal year 1999."

SEC. 105. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1832) is amended by inserting "promoting the objective of optimum utilization and" inserting "shall promote the achievement of optimum yield".

SEC. 106. FOREIGN FISHING.

Section 201 (16 U.S.C. 1832) is amended—
(1) by inserting a comma and "or the agent of the vessel" after "any application"; and
(2) by inserting before subparagraph (B) the following:

"(B) Upon receipt of any application submitted under paragraph (1) or any permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c)."

(3) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and
(4) by inserting at the end thereof the following:

"The Secretary shall also promptly transmit such application for the foreign vessel owner for any application submitted under paragraph (1)(A) to the Secretary of State each time the United States has entered into a governing international fishery agreement with any foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

"(B) An owner of a vessel, other than a vessel subject to the permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c)."

(5) by inserting "any application submitted under paragraph (1) and in" inserting "submitted under paragraph (1)" after "any application"; and
(6) by inserting "(i) in the case of any application submitted under paragraph (1)(B), the Secretary may disapprove all or any portion of the application." after "any application"; and
(7) by inserting "before" after "any application"; and
(8) by inserting "and any affected State" after "the Secretary"

SEC. 107. PERMITS FOR FOREIGN FISHING.

Section 3 (16 U.S.C. 1824(b)(9)) is amended—
(1) by inserting "in a non-wasteful manner" in subsection (b); and
(2) by inserting "and any affected State" after "the Secretary"

"(C) No permit issued under this section may be valid for longer than a year. Section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.".

(b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is amended—
(1) by inserting "(A) Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a)."

"(B) An owner of a vessel, other than a vessel subject to the permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c)."

(c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is amended by striking "under paragraph (4)(C)" and inserting "submitted under paragraph (1)

(d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—
(1) by striking "transmitted under paragraph (4)(A) in subparagraph (A) and inserting "submitted under paragraph (1)" after "any application"; and
(2) by inserting "(i) before "(ii)" after "in the case of any application submitted under paragraph (1)(B), the Secretary may disapprove all or any portion of the application." before "any application"; and
(3) by inserting "and any affected State" after "the Secretary"

"(ii) In the case of any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon determining that the application described in the application will be in the interest of the United States and will meet the applicable requirements of this Act, and that the owners or operators have agreed to comply with the requirements set forth in section 201(c) and have established any bonds or financial assurances that may be required by the Secretary; or the Secretary may disapprove any or all portion of the application.

(e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is amended—
(1) by inserting a comma and "or the agent of the foreign vessel owner for any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon determining that the application described in the application will be in the interest of the United States and will meet the applicable requirements of this Act, and that the owners or operators have agreed to comply with the requirements set forth in section 201(c) and have established any bonds or financial assurances that may be required by the Secretary; or the Secretary may disapprove any or all portion of the application." before "any application"; and
(2) by inserting "and any affected State" after "the Secretary"

"(C) No permit issued under this section may be valid for longer than a year. Section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.".

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(3) by adding at the end thereof the following:

"(B) If the Secretary does not approve any application submitted by a foreign vessel owner under paragraph (1)(B) of this subsection, the Secretary shall promptly inform the vessel owner of the disapproval and the reasons therefore. The owner, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection."

(g) Section 204(b)(11) (16 U.S.C. 1824(b)(11)) is amended—

(1) by inserting "(A)" after the paragraph heading,

(2) by inserting "submitting an application under paragraph (1)(A)" after "if a foreign national," and

(3) adding at the end thereof the following:

"(B) If the vessel owner submitting an application under paragraph (1)(B) notifies the Secretary of the continuation of the conditions and restrictions established by the Secretary under paragraph (7), and upon payment of the applicable fees established pursuant to paragraph (10) and confirmation of any bonds or financial assurances that may be required for such transshipment of fish, the Secretary shall thereupon issue a permit for the vessel.".

(h) Section 204 (16 U.S.C. 1824) is amended by adding at the end thereof the following:

"(d) PROHIBITION ON PERMIT ISSUANCE.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing, before December 1, 1999, any permit to authorize the catching, taking, or harvesting of Atlantic mackerel by foreign vessels to process Atlantic mackerel or Atlantic herring harvested by foreign fishing vessels within the exclusive economic zone. This subsection shall not apply to permits to authorize foreign fish processing vessels to process Atlantic mackerel or Atlantic herring harvested by fishing vessels of the United States.".

SEC. 108. LARGE-SCALE DRIFTFNET FISHING.

(a) Section 202(e) (16 U.S.C. 1822(e)) is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4) and (5) as (3) and (4), respectively,

(2) by striking subparagraph (A) of this section (b) and inserting the following:

"(3) and (4), respectively.

(b) Section 206(f) (16 U.S.C. 1826(f)) is amended by striking "(6)" and inserting "(4)".

SEC. 109. NATIONAL STANDARDS.

(a) Paragraph (1) of section 301(a) (16 U.S.C. 1851(a)) is amended—

(1) by striking subparagraph (C) of subsection (j)(2)(C) of this section and shall be published in accordance with the appointment of members. Such notification shall be published in accordance with section (b)(2)(A) of this section and shall include—

"(A) a description of the subject and scope of the measures to be developed and the issues to be considered;

(B) a list of interests likely to be significantly affected by the measures to be developed;

(C) a list of the persons proposed to represent such interests, the person or persons proposed to represent the Council, and the person or persons proposed to be nominated as facilitator;

(D) an explanation of how a person may apply or nominate another person for membership on the negotiation panel; and

(E) a proposed agenda and schedule for completing the work of the negotiation panel.

"(3) No more than 45 calendar days after providing this notification the Council shall make appointments to the negotiation panel in such a manner as to achieve balanced representation of all significant interests to the conservation and management measures. Such interests shall include, where appropriate, representatives from the fishing industry, consumer groups, the scientific community, tribal organizations, conservation organizations and other public interest organizations, and Federal and State fishery managers.

"(4) Each negotiation panel established under this section shall attempt to reach a consensus concerning specific conservation and management measures and any other issue such panel determines to be relevant to the measures. The Committee shall consider to what extent possible consistent with its legal obligations and the best scientific information available, will use the consensus of the negotiation panel, with respect to
such measures, as the basis for the development of any measures to be adopted by the Council for submission by the Council to the Secretary in accordance with this Act.

(5) The persons representing the Council on a negotiation panel shall participate in the deliberations and activities of such panel with the same rights and responsibilities as members.

(6) Any facilitator nominated by the Council to a negotiation panel must be approved by the panel by consensus. If the panel does not approve a facilitator nominated by the Council the panel shall select by consensus another person to serve as facilitator. No person appointed by the Council to a negotiation panel to represent any interest on the Council may serve as facilitator or otherwise chair such panel.

(7) A facilitator approved or selected by a negotiation panel shall—

(A) chair the meetings of such panel in an impartial manner;

(B) impartially assist the panel members in conducting discussions and negotiations;

and

(C) manage the keeping of any minutes or records, (except that any personal notes and materials of the facilitator or the panel members shall not be subject to disclosure, except upon order of a court).

(8) A panel may adopt any additional procedures for the operation of the negotiation panel not in conflict with those specified in this section.

(9) The record of the negotiation process, if the negotiation panel reaches a consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report containing the proposed conservation and management measures. If a negotiation panel reaches a consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report specifying its recommendations and describing the areas in which the negotiation panel reached consensus and the areas in which consent could not be reached. Such negotiation panel may include in a report any other information or materials that such panel considers appropriate. Any panel member may addenda to the report or provide additional information or materials.

(10) A negotiation panel shall terminate upon transmittal and presentation to the Council of the report required under paragraph (9) and inserting after paragraph (6) the following:

(1) by striking ``of the Council'' in paragraph (1) and inserting ``established under subpart (g)'';

(2) by striking the period at the end of paragraph (2) and inserting ``(B) the term `designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of a majority of the voting members of the Council, to attend Council meetings and make determinations under subparagraph (B),'';

(3) by striking paragraph (3) and inserting --

(A) summarizing available information on the significance of such habitat to the fishery; and

(B) identifying Federal actions that should be considered to promote the long-term conservation of essential fish habitat;

(4) by striking paragraph (4) and inserting --

(D) by striking and inserting ``(D) if the Secretary has reviewed a determination under subparagraph (C), the eventual ruling shall be considered made by the Secretary within 10 days of the date of such information. Any oral or written statement shall include a description of the qualifications and interests of the person in the subject of the oral or written statement.'';

(5) by amending paragraph (2)(E) to read as follows:

(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit the certified minutes to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(6) by striking ``(ii)'' and ``(iii)'' in paragraph (2)(g).

(7) by striking ``(1)(A)(ii)'' in paragraph (3) and inserting paragraph (3)(A).

(8) by striking ``(B)'' in paragraph (3)(A) and inserting --

(B) the term `affected individual' means any individual who—

(i) is nominated by the Governor of a State for appointment as a member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed under subsection (b)(2); and

(C) any Council member may submit a written request to the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under paragraph (b) and the making of determinations under subparagraph (B).

(9) by striking ``(1)(B) or (C)'' in paragraph (8), as redesignated, and inserting --

(A) that person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary; or

(B) the term `designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of a majority of the voting members of the Council, to attend Council meetings and make determinations under subparagraph (B),'';

(10) by inserting paragraph (9) and inserting a semicolon; and

(11) by striking paragraph (10) and inserting --

(A) the term `affected individual' means

(i) an individual likely to be affected in a similar manner;

(ii) an individual who has a similar point of view or other proportionate benefit, shared only by a member of a negotiation panel.

(B) the term `interest' means, with respect to a negotiation panel, multiple persons or parties who have a similar point of view or which are likely to be affected in a similar manner.

SEC. 111. FISHERY MANAGEMENT PLANS. (a) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

(6) A plan for the protection of essential fish habitat shall be considered to have a significant and predictable effect on such financial interest if there is a close causal link between a Council decision and an expected and disproportionate benefit to a minority of persons within the same industry sector or gear group, to the financial interest that would be affected.

(b) Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) by striking paragraph (1) and inserting paragraph (1)(A)(ii) and paragraph (1)(C) and inserting --

(A) the term `affected individual' means any individual who—

(i) is nominated by the Governor of a State for appointment as a member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed under subsection (b)(2); and

(B) any Council member may submit a written request to the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under paragraph (b) and the making of determinations under subparagraph (B).

(c) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

(6) A plan for the protection of essential fish habitat shall be considered to have a significant and predictable effect on such financial interest if there is a close causal link between a Council decision and an expected and disproportionate benefit to a minority of persons within the same industry sector or gear group, to the financial interest that would be affected.

(d) Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) by striking paragraph (1) and inserting paragraph (1)(A)(ii) and paragraph (1)(C) and inserting --

(A) the term `affected individual' means any individual who—

(i) is nominated by the Governor of a State for appointment as a member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed under subsection (b)(2); and

(B) any Council member may submit a written request to the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under paragraph (b) and the making of determinations under subparagraph (B).

(e) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

(6) A plan for the protection of essential fish habitat shall be considered to have a significant and predictable effect on such financial interest if there is a close causal link between a Council decision and an expected and disproportionate benefit to a minority of persons within the same industry sector or gear group, to the financial interest that would be affected.
which the plan applies would be or is
overfished, with an analysis of how the cri-
teria were determined and the relationship
of the criteria to the reproductive potential
of stocks of fish in that fishery;
(12) to the extent practicable, minimize
mortality caused by economic and regula-
tory practices in the fishery;
(b) Section 303(b)(16 U.S.C. 1853(b)) is
amended—
(1) by striking paragraph (6) and inserting
the following:
"(6) establishes a limited access system for
the fishery in order to achieve optimum yield if—"
(2) by striking paragraph (9) and inserting
the following:
"(9) the Secretary determines that the ap-
corporeate Council has failed to give suf-
sicient weight to public input;"
(3) by striking paragraph (10) and inserting a sub-
paragraph (a) which states:
"(a) maintains the geographic integrity of
the geographical areas concerned, so as
to allow interested persons an opportunity to
be heard in the preparation and amendment
of the plan; and any regulations implement-
ing the plan;"
(4) by striking paragraph (10) and inserting a sub-
paragraph (b) which states:
"(b) consult with and consider the com-
ments and views of affected Councils, as well
as commissioners and advisory groups ap-
pointed under Acts implementing relevant
international fishery agreements pertaining
to highly migratory species;"
(c) Section 303 (16 U.S.C. 1853) is amended
by adding subsection (c) and all thereafter
and inserting the following:
"(c) Regulations To Implement A Fishery
Management Plan.—Proposed regulations
which the Council deems necessary or appro-
priate for the implementation of an in-
dividual transferable quota, such regula-
tions also comply with the guidelines and
fee requirements established under section
303(b)."; and
(2) by striking paragraph (13) and inserting
the following:
"(13) applies to any plan amendment or pro-
posed regulations to rebuild an overfished fishery pursuant to
section 303(b) within 1 year after determining
that such fishery is overfished."
(2) The Secretary shall prepare a fishery
management plan with respect to any highly
migratory species fishery to which section
302(a)(3) applies, or any amendment to any
such plan, in accordance with the national
standards, the other provisions of this Act,
and any other applicable law. In preparing
and implementing any such fishery management plan,
the Secretary shall—
(A) conduct public hearings, at appro-
priate times and in appropriate locations in the
geographical areas concerned, so as to
allow interested persons an opportunity to
be heard in the preparation and amendment
of the plan; and any regulations implement-
ing the plan;
(B) consult with and consider the com-
ments and views of affected Councils, as well
as commissioners and advisory groups ap-
pointed under Acts implementing relevant
international fishery agreements pertaining
to highly migratory species; and
(C) establish an advisory panel under
section 302(g) for each fishery management plan
for such fishery, or any amendment to such
fishery management plan, or any amend-
ment to any such plan, prepared under this
paragraph, which shall consist of a balanced number of rep-
resentatives (but not less than 7) who are
knowledgeable and experienced with respect
to the fishery concerned selected from
among members of advisory groups ap-
pointed under Acts implementing relevant
international fishery agreements pertaining
to highly migratory species and other inter-
est groups.
(d) The Secretary may not approve a fish-
ery management plan that includes indivi-
dual transferable quotas unless the Council
has promulgated guidelines under paragraph
(2). Thereafter, the Secretary may approve
a fishery management plan or amendment
that includes individual transferable quotas
on the consolidation of individual transfer-
able quotas, and any plan amendment is consistent
with the guidelines promulgated under para-
graph (2).
(2) The Secretary shall promulgate, after
consultation with the Councils, a public
notice and comment, mandatory guidelines
for the establishment of any individual
transferable quota system. The guidelines shall—
(A) ensure that any individual transfer-
able quota system—
(i) is consistent with the requirements for
limited access systems under section
303(b)(6);
(ii) promotes conservation;
(iii) requires collection of fees from hold-
ers of individual transferable quotas under
section 304(f)(2);
(iv) provides for the fair and equitable
allocation of fishing privileges, and minimizes
negative social and economic impacts on
fishery-dependent communities;
(v) establishes a national lien registry
system for the identification, perfection,
determination of lien priorities, and non-
judicial foreclosure of encumbrances or individual
transferable quotas; and
(vi) facilitates a reduction in excessive
fishing capacity in the fishery;
(B) take into consideration the characteristics of fisheries
that are relevant to the design of suitable indi-
vidual transferable quota systems, the na-
ture and extent of the privilege established
under an individual transferable quota sys-
tem, factors in making initial allocations
and determining eligibility for ownership of
individual transferable quotas, limitations
on the consolidation of individual transfer-
able quotas, and methods of providing for
new entrants, including, in fisheries where
appropriate, mechanisms to provide a por-
tion of the annual harvest to entry-level
fishermen or small vessel owners who do not
hold individual transferable quotas;
(C) provide for effective monitoring and enforcement of individual transferable quota
SEC. 112. PLAN REVIEW AND IMPLEMENTATION.

(1) Upon transmittal by the Secretary to the Council of a fishery management plan, this Act, and other applicable law, the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 30 days after the date of initiating such evaluation, the Secretary shall make a determination and—
(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary, in the Federal Register for a public comment period of 15 to 60 days; or
(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—
(A) the period within which the plan or amendment is inconsistent; and
(B) the nature of such inconsistencies; and
(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

(4) If the Secretary approves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

(2) ACTION ON REGULATIONS.—

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 30 days after the date of initiating such evaluation, the Secretary shall make a determination and—
(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary, in the Federal Register for a public comment period of 15 to 60 days; or
(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

(4) If the determination made under subsections (a) and (b), the term 'immediately' means on or before the 5th day after the day on which the Council transmits to the Secretary a plan, amendment, or proposed regulation that the Council characterizes as final.

(5) The Secretary shall prepare a fishery management plan or amendment, the Secretary shall immediately—

(i) for a plan or amendment prepared under section 303(e), submit such plan or amendment to the appropriate Council for consideration and comment; and
(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(3) In undertaking the review required under paragraph (1), the Secretary shall—

(A) consider the data, views, and comments received from interested persons;
(B) consult with the Secretary of State with respect to foreign fishing; and
(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and any other applicable provisions of this Act.

(4) No later than 60 days after the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(5) Any fishery management plan which includes individual transferable quotas that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(6) The term `holder of an individual transferable quota at any time and the Secretary to terminate or limit such individual transferable quota if the Secretary determines that the individual transferable quota does not constitute a property right. Nothing in this section or any other provision of law shall be construed to limit the authority of the State to terminate or limit such individual transferable quota at any time and without compensation to the holder of such quota. The term 'holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(7) Any individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(8) This section includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(9) No transfer of an individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(10) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(11) Any individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(12) This section includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(13) No transfer of an individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(14) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(15) Any individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(16) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(17) No transfer of an individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(18) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(19) Any individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(20) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(21) No transfer of an individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(22) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.

(23) Any individual transferable quota that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

(24) The term `holder of an individual transferable quota' includes individual transferable quotas that may be issued, including multiple individual transferable quotas that may be issued, to the same holder.
(a) REPORT ON STATUS OF FISHERIES.—The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area, and its action to achieve the fishery districts with lesser abundance of fish, by group or by season. In those fisheries that are approaching a condition of being overfished or overfished, the Secretary shall publish a report or advisory on the status of each fishing district, and make recommendations to the Federal Register for a public comment period of not less than 60 days. The Secretary shall include with such list specific guidelines for determining when a technology or fishery is sufficiently different from those listed as to require notification under paragraphs (6) and (7) of section 301(a)(3).

(b) FISHERY RECOVERY EFFORT.—(1) The Council shall submit a fishery management plan, amendment, or proposal regulations required under paragraph (1) to the Secretary within 1 year from the date of transmission of the report on the status of stocks under subsection (a). If a fishery is overfished, such fishery management plan, amendment, or proposal shall specify a time period for stopping overfishing and rebuilding the fishery. The time period shall be as short as possible, taking into account the biological vulnerability of the overfished stock of fish, the needs of fishery-dependent communities, and the interaction of the overfished stock of fish within the ecosystem. The time period shall not be more than 10 years, except under extraordinary circumstances.

(2) During the development of a fishery management plan, amendment, or proposed regulations under this subsection, the Council may request that the Secretary extend a period of time under subsection (e)(2) to reduce overfishing. Any request by the Council under this paragraph shall be deemed an emergency.

(c) FISH HABITAT.—(1) The Secretary, in cooperation with the Councils and the Secretary of the Interior, shall identify the essential fish habitat for each fishery for which a fishery management plan contains the essential fish habitat in the Act.

(2) Each Council—

(A) may comment on and make recommendations concerning any action under paragraph (e) that is proposed or taken by any Federal agency that is involved or that will be involved in the overfishing or rebuilding of the fishery;

(B) shall comment on and make recommendations to any Federal or State agency concerning any such action that, in the view of the Council is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

(3) If the Secretary receives information from a Council or determines from other sources that an action authorized, funded, or carried out, or proposed to be carried out by any Federal agency may result in the destruction or adverse modification of any essential fish habitat identified under paragraph (e) of section 301(a)(1), the Secretary shall determine whether or not any Federal or State agency that, in the course of taking action, may result in the destruction or adverse modification of any essential fish habitat for that year, any fishery, or any fishery-dependent community, or the interaction among them, has been identified by the Council. If the Secretary determines that such an action, or any Federal or State agency that, in the view of the Secretary, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction, the Secretary shall publish a report on the status of the fishery or the habitat in the Federal Register for a public comment period of not less than 60 days. The Secretary shall take into account any public comments received.

(4) If, after providing the notice required under paragraph (3), no emergency regulations are implemented under paragraph (5), the person or vessel submitting notice under paragraph (3) may, after the required 90 day period has lapsed, employ the unlisted technology or enter the unlisted fishery to which such notice applies. The notice received by the appropriate Council or the Secretary, the Federal Register for a public comment period of not less than 60 days. The Secretary shall take into account any public comments received.

(5) A Council may request the Secretary to promulgate emergency regulations under section 301(a)(3) to prohibit any person or vessel from employing any unlisted technology or engaging in any unlisted fishery if the appropriate Council or the Secretary, in the view of the Council or the Secretary, the Federal Register for a public comment period of not less than 60 days. The Secretary shall take into account any public comments received.

(6) If, after providing the notice required under paragraph (5), the person or vessel submitting notice under paragraph (3) may, after the required 90 day period has lapsed, employ the unlisted technology or enter the unlisted fishery to which such notice applies. The notice received by the appropriate Council or the Secretary, the Federal Register for a public comment period of not less than 60 days. The Secretary shall take into account any public comments received.

(7) A violation of this subsection shall be considered a violation of section 306, punishable under section 306.

(8) EMERGENCY ACTIONS.—(1) If the Secretary finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

(a) the Secretary shall issue regulations under section 301(a)(3) to prohibit the use of any unlisted technology or the entry of any unlisted fishery if the appropriate Council or the Secretary, the Federal Register for a public comment period of not less than 60 days. The Secretary shall take into account any public comments received.

(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—
(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the voting members of the Council, requests the taking of such action; and

(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

(A) shall be included in the Federal Register together with the reasons therefor;

(B) shall, except as provided in subparagraph (2), be effective for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

(C) if so requested by a public health emergency, may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is established;

(D) that reduces overfishing may be approved without regard to the requirements of section 301(a)(l) and may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

(4) The Secretary may, pursuant to guidelines established by a Council in a fishery management plan, close or restrict a particular fishery covered by such fishery management plan, as an emergency, if such action is necessary to prevent overfishing or to reduce bycatch. Any such guidelines shall specify appropriate means for providing timely notice to fishermen of any closure or restriction, and the authority granted under this paragraph, the Secretary shall not be required to provide an opportunity for comment if such closure or restriction is in accordance with the fishery management plan guidelines and does not extend beyond the current fishing period established for that fishery by the fishery management plan.

**SEC. 114. STATE JURISDICTION.**

(a) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) the owner or operator of the vessel submits reports on the tonnage of fish received from U.S. vessels and the locations from which such fish were harvested, in accordance with such procedures as the Secretary may prescribe."

SEC. 115. PROHIBITED ACTS.

(a) Section 307(1)(i)(l) (16 U.S.C. 1857(1)(i)(l)) is amended by striking "American Lobster Fishery Management Plan, as supplemented and implemented under that plan, implemented under this title".

(b) Section 307(1)(l) (16 U.S.C. 1857(1)(l)) is amended to read as follows:

"(l) to force, impede, intimidate, sexually harass, or interfere with any observer on a vessel under this Act, or any data collector employed by or under contract to the National Marine Fisheries Service;"

(c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is amended to read as follows:

"(M) to engage in or direct driftnet fishing on a vessel of the United States or a vessel subject to the jurisdiction of the United States upon the high seas beyond the exclusive economic zone of any nation or within the exclusive economic zone of the United States, and any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has onboard gear that is capable of use for large-scale driftnet fishing, shall be presumed to be engaged in such fishing, but that presumption may be rebutted; or"

(d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishery within the boundaries of any State, except—

(i) recreational fishing permitted under section 303(h);

(ii) fishing permitted under section 306(c), or

(iii) transshipment at sea of fish products within the boundaries of any State in accordance with subsection (d)(1) approved under section 204(b)(6)(A)(ii)(I);

(e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "203" and inserting "203(1)".

(f) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign vessel, with such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(b)(6)(B) or section 306(c) to receive such fish;"

(c) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or with the boundaries of any State after "zone".

**SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.**

(a) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a), or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine), may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order;"

(b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "(C) any" through "overdue;" and inserting the following: "(C) any amount in civil penalties or permit sanctions imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary, has not been paid and is overdue;"

(c) Section 308(16 U.S.C. 1858) is amended by inserting at the end thereof the following: "or, if an administrative or enforcement cost incurred or other expenditures authorized under this Act, all funds collected under this section shall be deposited in a separate account of the Ocean Conservation and Trust Fund established under section 315;"

**SEC. 117. ENFORCEMENT.**

(a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine;"

(2) by inserting "of not less than 20 percent of the penalty collected" after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 310(c) of this Act or by any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation;"

(b) Section 311 (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (h), and by inserting the following after subsection (e):

"(f) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

(i) an analysis of the efficacy of federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans, and

(ii) recommendations to improve enforcement that should be considered in developing amendments to plans or to regulations implementing such plans;"

(c) Section 311 (16 U.S.C. 1861) is amended—

(1) by striking "Fishermen's Information Networks.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the development of volunteer networks, to be designated as Fishermen's Information Networks, to advise on, and assist in the monitoring, reporting, and prevention of violations of this Act."

**SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.**

Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "research plan" in the section heading and inserting "conservation"; and

(2) by adding at the end the following:

"(g) FISHERMEN'S INFORMATION NETWORKS.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the development of volunteer networks, to be designated as Fisherman's Information Networks, to advise on, and assist in the monitoring, reporting, and prevention of violations of this Act."
incidents, to reduce bycatch in each fishery. Notwithstanding section 304(d), in implementing this subsection the Council may recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the Council's jurisdiction. Such conservation and management measures shall ensure the accurate enumeration of target species, economic discards, and regulatory discards.

(3) Beginning on January 1, 1998, such conservation and management measures shall include a harvest preference or other incentives to fishing and processing practices within each gear group that result in the lowest levels of economic discards, processing waste, regulatory discards, and other bycatch in each fishery under the Council's jurisdiction. Such conservation and management measures shall be given priority, the reduction of economic discards shall be given the greatest weight, followed by processing waste (where applicable), regulatory discards and other bycatch, in that order.

(4) In determining the level of target species, catch, economic discards, regulatory discards, other bycatch, and processing waste, the Council and Secretary shall base such determinations on observer data or the best available information.

(5) In the case of fisheries occurring under an individual transferable quota system under the jurisdiction of the North Pacific Fishery Management Council after January 1, 1998—

(A) the Council shall designate non-target species, bycatch species, and regulatory discards for each fishery;

(B) the Council may not recommend, and the Secretary may not approve, any assignment or allocation of individual transferable quotas, economic discards, regulatory discards, other bycatch, and processing waste, which in the Council's opinion, will result in the catch of non-target species, economic discards, and regulatory discards to the maximum extent practicable while allowing for the prosecution of fisheries under its jurisdiction.

(2) Not later than June 1, 1996, the North Pacific Fishery Management Council shall propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each species setting minimum percentages of target species catch, economic discards, regulatory discards, and processing waste.

(3) The North Pacific Fishery Management Council shall establish for each fishery under the Council's jurisdiction a cap on the number of quota shares in such regime. To the extent that the costs recovered under this paragraph and any costs attributable to the reduction of economic discards to the minimum level are insufficient to recover the reasonable costs (including all costs for salaries, expenses, equipment, food and lodging, transportation, insurance, and analysis of information) necessary to accurately monitor that vessel or processor, the Secretary shall deposit any fees collected under this paragraph in the North Pacific Fishery Observer Fund account in the United States Treasury, and shall remain available until expended under the terms of that fund.

(4) Notwithstanding sections 304(f) and 304(i) of this Act, the Secretary may propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each species setting minimum percentages of target species catch, economic discards, regulatory discards, and processing waste.

(5) Notwithstanding section 304(f), in implementing this section the Council may recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each species setting minimum percentages of target species catch, economic discards, regulatory discards, and processing waste.

(6) Nothing in this section shall be construed to preclude the North Pacific Fishery Management Council from allocating a portion of any quota for a directed fishery for use in other fisheries if the Council determines such allocation is necessary to prosecute a fishery, after taking into account the requirements of this section and the necessities of reducing bycatch and processing waste.

(g) Full Retention and Full Utilization of Catch.

(i) The North Pacific Fishery Management Council shall, consistent with the other provisions of this Act, submit to the Secretary by January 1, 1997, a plan to phase out, not later than January 1, 2000, to the maximum extent practicable, fishery management plan amendments to require full retention by fishing vessels and full utilization by United States fish processors of all fishery sources, except regulatory discards, caught under the jurisdiction of such Council if such fishery resources cannot be quickly returned alive to the sea with the expectation of extended survival.

(ii) Fishery shall include conservation and management measures to minimize processing waste and ensure the optimum utilization of target species, including standards setting minimum percentages of target species harvest that must be processed for human consumption.

(iii) In determining the maximum extent practicable, the North Pacific Fishery Management Council shall recommend, and the Secretary by January 1, 1997, a plan to submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives to develop jointly with industry accurate methods of weighing the fish harvested by U.S. fishing vessels in fisheries under the jurisdiction of the North Pacific Fishery Management Council. Such plan shall include methods for using such regulatory discards to fund such development, as well as recommendations from the Secretary concerning the level of funds needed to successfully implement the plan in fiscal year 1997.
SEC. 314. DETERMINATION OF FAILURE. Ð The Secretary, in consultation with the Governors of the affected States and other interested parties, shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

(1) (A) a cyclonic or other severe climate event, an oceanographic event, a disease, or a catastrophic event; or

(B) overfishing by vessels or individuals that have not been authorized to fish for the affected fishery;

(2) (A) a change in the mix or density of the affected fishery or its habitat; or

(B) human or natural activities which affect the sustainability of the affected fishery;

(3) (A) an increase in fishing mortality above the levels causing overfishing; or

(B) a change in economics, resource availability, and social or political conditions affecting the sustainability of the affected fishery;

(4) a change in the performance of an oceanographic or esoteric model or computer simulation used to determine the sustainability of the affected fishery;

(5) a change in the public’s interest in fishing for the affected fishery;

(6) a change in the availability of research and developments in oceanography, technology, or the management of the affected fishery.

SEC. 315. TASK FORCE. Ð The Secretary shall establish a task force to assist in the development of a sustainable development strategy for a buy-out program under this section. The task force shall consist of members of the affected communities and individuals with expertise in fishery management and conservation, economics, and social sciences.

SEC. 316. FISHERIES DISASTER RELIEF. Ð (A) DETERMINATION OF FAILURE. Ð The Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

(1) a change in the mix or density of the affected fishery; or

(2) an increase in fishing mortality above the levels causing overfishing; or

(3) a change in economics, resource availability, and social or political conditions affecting the sustainability of the affected fishery;

(4) a change in the performance of an oceanographic or esoteric model or computer simulation used to determine the sustainability of the affected fishery;

(5) a change in the public’s interest in fishing for the affected fishery;

(6) a change in the availability of research and developments in oceanography, technology, or the management of the affected fishery.

(B) TASK FORCE. Ð The Secretary shall establish a task force to assist in the development of a sustainable development strategy for a buy-out program under this section. The task force shall consist of members of the affected communities and individuals with expertise in fishery management and conservation, economics, and social sciences.

(C) FEDERAL COST-SHARING. Ð The Secretary shall determine that a buy-out program is necessary for the development and implementation of a fishery recovery effort under section 305(b).

(D) FUNDING. Ð The Secretary shall establish a fund to assist in the development and implementation of a fishery recovery effort under section 305(b).

(E) AUTHORIZATION OF APPROPRIATIONS. Ð There is authorized to be appropriated for programs to implement paragraph (2)—

(1) $100,000 with funds available in the Fund established by this Act for the purpose of this section shall be available for expenses incurred in carrying out the sustainable development strategy for the affected fishery or its habitats, and in the implementation of the sustainable development strategy and the buy-out program.

(2) $250,000 to be used to pay any costs of administering the buy-out program under this section.

(3) $250,000 for programs to implement paragraph (2).
"(ii) the number of vessels participating in the fishery;

(3) the time period in which the fishery occurs;

(4) a description of fishing gear used in the fishery, including the amount of such gear and the appropriate unit of fishery effort;

(5) catch and ex-vessel value of the catch for each stock of fish in the fishery; and

(6) the amount and types of economic and regulatory discards, and an estimate of any other bycatch.

(3) Public Comment.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period, a proposal that would provide for implementation of a standardized fishing vessel registration and data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

(1) a description of the arrangements for consultation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, and the appropriate unit of government.

(2) a proposed implementation schedule; and

(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

(4) Report to Congress.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to the Congress on the need to include private recreational fishing vessels used exclusively for pleasure and annual economic and financial information regarding fishing operations or fish processing operations.

(a) Council Requests.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement a data collection program for the fishery, which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations).

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a Federal fishing permit. If the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

(b) Confidentiality of Information.—Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed if disclosure would significantly impair the commercial interests of the person from whom the information was submitted.

(1) To Federal employees and Council employees who are responsible for fishery management plan development and monitoring; and

(2) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person who submits such information.

(3) when required by court order;

(4) when such information is used to verify catch under an individual transferable quota system; and

(5) unless the Secretary has obtained written authorization from the person submitting such information to release such information.

OBSERVERS

Fishing Vessel Registration and Data Management System.—The Secretary shall, in cooperation with the appropriate unit of government, develop recommendations for implementation of a standardized fishing vessel registration and data management system to the maximum extent practicable, in cooperation with governmental and nongovernmental parties and—

(1) be designed to standardize the requirement for registration and data collection systems required by this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary;

(2) integrate programs under existing fishery management plans into a nonduplicative data collection and management system;

(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and utilize, to the maximum extent practicable, information collected from existing systems;

(4) provide for implementation through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

(5) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

(6) minimize the paperwork required for vessels registered under the system;

(7) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels, except for private recreational fishing vessels used exclusively for pleasure and annual economic and financial information regarding fishing operations or fish processing operations.

(b) Registration and Data Management System.—The registration and data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

(1) the number of vessels participating in the fishery;
fish habitat and promote efficient harvest of target species.

(3) Information management research, including the development of a fishery information base and an information management system that will facilitate the full use of data in the support of effective fishery conservation and management.

(4) Public notice.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and local agencies, fishing and fishery organizations, and other interested persons, including those in the areas of technological devices and other changes in fishing technology for the reduction of incidental mortality of shrimp.

(5) Implementation criteria.—Any measure implemented under this Act to reduce the incidental mortality of nontarget fishery resources that aid in the reduction of shrimp fishing shall, to the extent practicable,

(1) apply to such fishing throughout the range of the nontarget fishery resource concerned,

(2) be implemented first in those areas and at those times where the greatest reduction of such incidental mortality can be achieved.

SEC. 207. REPEAL.

Section 406 (16 U.S.C. 1822) is repealed.

SEC. 208. CLERICAL AMENDMENTS.

The title of this section is amended by striking the matter relating to title IV and inserting the following:

“Sec. 311. Transition to sustainable fisheries.

Sec. 312. Fisheries disaster relief.

TITLE IV—FISHERIES MONITORING AND RESEARCH

Sec. 401. Registration.

Sec. 402. Data collection.

Sec. 403. Observers.

Sec. 404. Fisheries research.

Sec. 405. Incidental harvest research.”

TITLE III—FISHERIES STOCK RECOVERY FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as “Fisheries Stock Recovery Financing Act.”

SEC. 302. FISHERIES STOCK RECOVERY FINANCING

Title XI of the Merchant Marine Act, 1996 (46 U.S.C. 1271 et seq.), is amended by adding at the end the following new section:

“Sec. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary shall, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations that are refinanced, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of the fisheries recovery effort, all obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for constructing, reconverting, purchasing, repairing, maintaining, repairing, replenishing, or any other activity whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

(1) which were not in existence prior to the time the Secretary approved a fisheries recovery effort for guarantee under this section and whose purpose, in whole or in part, is the repayment of indebtedness which resulted in increased vessel harvesting capacity; and

(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or
It had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

(c) Where refinanced obligations exceed 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (including but not limited to non-exempted) market value of any mortgaged vessel or fishing facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to non-exempted) market value of any other vessel or fishing facility to which such obligations relate; and

(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligations to pay, the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being paid out of the proceeds of the date stock recovery is projected to be completed and the maturity date of such obligations).

(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

(f) The Secretary may not make commitments for any project or other principal of such obligor.

(I) The Secretary shall apply to obligations guaranteed under this section—

(A) the projected degree and duration of reduced fisheries allocations;

(B) the projected reduction in fishing vessels and fishery facilities;

(C) the projected severity of the impact on fishing vessels and fishery facilities;

(D) the projected effect of the fishery recovery effort;

(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854 et seq.); and

(F) the need for and advisability of guarantees under this section;

(G) The Secretary shall determine that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved in, and all other aspects of the obligor, project a reasonable prospect of full repayment; and

(H) The obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations adopted under this section, require to protect the interest of the United States and carry out the purpose of this section.

All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

For the purposes of this section, the term "fishing vessel or fishery facility," as used in this section, means a fishing vessel or fishery facility which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.

SEC. 303. FEDERAL FINANCING BANK RELATING TO FISHING VESSELS AND FISHERY FACILITIES.

Section 1104A(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)), is amended by striking "Provided, further, That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this provision through the Federal Financing Bank" and inserting the following: "Provided, further, That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual effective yield than placement through the Federal Financing Bank.".

SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.

Section 1104A(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1274e), is amended by inserting after "financing" the following: "without requiring financing or other authorization under the Federal Credit Reform Act of 1990".

Mr. KERRY. Mr. President, on March 1, 1977, the Fishery Conservation and Management Act was signed into law by the President. It authorized the construction and operation of an actuarial insurance program, known as the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage of the actual cost of the obligation plus a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).

SEC. 305. SALE OF ACQUIRED COLLATERAL.

Section 1104A(a)(3) of the Merchant Marine Act, 1936 (46 U.S.C. 1274a(3)), is amended by inserting after "financing" the following: "without requiring financing or other authorization under the Federal Credit Reform Act of 1990".

The Magnuson Act succeeded— it limited the operation of foreign fishing vessels and processors and encouraged the development of the U.S. domestic fishing fleet and processing industry. In 1993, U.S. commercial fishermen landed over 10 billion pounds of fish, producing $3.4 billion in dockside revenues. By weight of catch, the United States is now the world's sixth largest fishing nation. The United States is also the top seafood exporter, with exports valued at $3.1 billion in 1993.
However, we have succeeded too well in some ways, and today there is another threat to our coastal fisheries. The threat is not from abroad but from ourselves. Since the implementation of the Magnuson Act, the number of commercial groundfish vessels in New England has increased by 70 percent, and the resulting harvesting capacity has increased by 130 percent. Although fish and shellfish are renewable resources, they are not unlimited. In several U.S. fisheries, a pattern has been repeated: fishermen, lured by the promise of large and lucrative harvests, have fished stocks to depletion. Inhabitants of the Northwest, the council members have made a substantial effort to manage the nation's fisheries—"as of September 1, 1993, 33 fishery management councils established under the act work with the National Marine Fisheries Service to manage fisheries on a regional level while meeting the national standards set forth in the act. The councils have made a substantial effort to manage the nation's fisheries and the bill itself, appear in the Record following my remarks. The key to the success of the Magnuson Act is the ability of the eight regional fisheries management councils established under the act to work with the National Marine Fisheries Service to manage the fisheries on a regional level while meeting the national standards set forth in the act. The councils have made a substantial effort to manage the nation's fisheries has been mixed. Critics charge that since the enactment of the Magnuson Act, the councils have sometimes reacted to developments in fisheries rather than anticipated problems—"even when looming problems are apparent. In addition, the complexity of the process has impeded the council response, often exacerbating the problem. In many instances, minor management actions could have been taken sooner to avoid the need for more dramatic measures later. In some regions, including parts of the Northwest, the council members are no longer perceived as stewards of the public resource, providing fair and reasonable harvests to commercial and recreational harvesters. The Magnuson Act requires that council members be knowledgeable or experienced with regard to the conservation and management, or the recreational or commercial harvest, of fishery resources within their respective geographic areas of responsibility. However, this requirement has created situations in which a council member may have personal or financial interests in a fishery he or she is responsible for managing.

In fact, despite the work of the councils, problems continue to exist in varying degrees in many regions. These include: continued overfishing; lack of coordination between councils and the Federal Government; lack of accountability; inconsistency in State and Federal management measures; and adoption of unenforceable management measures.

Perhaps the most visible example of the problems in fisheries management is one with which I unfortunately am too familiar—the collapse of the traditional New England groundfish stocks of cod, haddock, and yellowtail flounder. In 1989, the commercial fishing industry in Massachusetts was a $300 million industry. By 1993, revenues had dropped to almost $232 million, and their year revenues are certain to be much lower.

In 1993, the decline of these valuable fish stocks necessitated a substantial amendment to the fisheries management plan for these stocks in an effort to eliminate overfishing by cutting in half fishing mortality over the next 5 to 7 years. It was necessary to rebuild the fishery has already had significant economic impact on the coastal communities throughout New England. However, even before those programs could be fully implemented, information from the National Marine Fisheries Service indicated that the situation was worse than predicted, and as a result the New England Fisheries Management Council voted to recommend that the Secretary of Commerce take emergency action to address the crisis in New England while it develops plan amendment under normal procedures. In December, the Secretary took emergency action to close portions of U.S. waters of the Georges Bank and southern New England to commercial fishing in an effort to save the traditional groundfish stocks from commercial extinction. These emergency measures are the latest blows to the New England Groundfishery. A Council study warns that if the problems are not addressed and reversed for the sake of the fishermen and the fish in New England and throughout the Nation.

Over the last 2 years, the Commerce Committee has conducted a series of oversight hearings here in Washington and in fishing communities around the U.S. coast. We have reviewed comments from members of the fishing industry, the administration, conservation groups, and other public interest groups. This has been a bipartisan effort. I have worked closely with the senior Senator from Alaska. We and our colleagues share the desire to ensure plentiful yields of fish for years to come. I am introducing today is an effort to address the existing problems of the fisheries management process.

I recognize that this bill is ambitious in scope. However, the fisheries of the United States are at a crossroads and significant action is required to remedy our fisheries management problems and preserve the future of our fishing communities. Fish on the dinner table is something that many Americans may have taken for granted in the past; but unless we take steps to ensure that these vital resources are conserved, they will not be there for future generations. I hope my colleagues will join me in coming to grips with passing legislation as soon as possible to ensure that the fisheries of the United States once again will be bountiful and sustainable. I look forward to working with the new chairman of the Commerce Committee, Senator Pessler, and his staff and of course, the former chairman and new ranking Democratic member, Senator Hollings and his staff, toward this end. I want to thank Senator Hollings, Senator Stevens and his staff, and the staff of the majority and the minority, for their assistance in preparing this bipartisan bill for introduction today.

I ask unanimous consent that a summary of the bill's principal provisions, and the bill itself, appear in the Record following my remarks.

SUMMARY OF MAJOR PROVISIONS—SUSTAINABLE FISHERIES ACT OF 1995

The Sustainable Fisheries Act amends the Magnuson Fishery Conservation and Management Act to extend the authorization of appropriations for the Secretary of Commerce to support fisheries conservation efforts and rebuild depleted fisheries. Major provisions include the following:

FISHERIES CONSERVATION

Preventing overfishing and rebuilding depleted fisheries. The bill would require the Councils to define overfishing in each fishery management plan. It also calls for an annual report by the Secretary of Commerce (Secretary) on the status of fisheries under each Council and identification of fisheries that are overfished or approaching an overfished management condition. The bill calls for the Secretary to come up with a plan to stop overfishing and rebuild the fishery, and the Secretary would be required to step in if the Council fails to act. While a plan is under development, interim measures to reduce fishing could be implemented as emergency measures. To deal with the socioeconomic issues associated with rebuilding the fishery, the Secretary would work with the states and local communities to develop a sustainable development strategy.

Habitat protection. The Secretary would be required to identify essential habitat for all fisheries under management, based on information provided by the Councils. The bill would also expand the existing authority of the Councils and the Secretary to comment and take action against Federal agencies concerning actions that would affect essential fish habitat. In addition, the Secretary and the Councils would have the ability to file a lawsuit if the Secretary fails to act.

Catch and waste reduction. The bill would require the Secretary to take emergency action to restrict such gear or fishery.

Bycatch and waste reduction. The bill would require the Secretary to take emergency action to restrict such gear or fishery.

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Vessel or permit buy-out. As part of a sustainable fisheries strategy, the bill would authorize the Secretary to provide for vessel or permit buy-out programs to assist fishermen to adjust to reduced fishing opportunities. The buy-out program would be subject to the following requirements:

1. The Secretary would conduct an economic analysis of the reasons for the current fishing levels to identify the need for buy-out programs.
2. The Secretary would establish criteria for determining the eligibility of fishermen for buy-out payments, including the extent of economic hardship and the potential for alternative employment in the industry.
3. The Secretary would ensure that the buy-out program does not result in a transfer of economic benefits to non-fishing interests.
4. The Secretary would establish procedures for the fair and equitable distribution of buy-out payments among eligible fishermen.

The bill would also provide for the establishment of an observer training and education program to ensure the effective monitoring and enforcement of fishing regulations. The bill would authorize the Secretary to establish an observer program to collect data on fishing activities and to ensure compliance with regulations. The observer program would be mandatory for all commercial fisheries and would be funded through a fee system. The Secretary would be required to establish a fee system to collect an annual fee of up to four percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust Fund.

The bill would amend Title XI of the Merchant Marine Act of 1936 to provide for a fisheries stock recovery financing program under the Fishing Vessel Obligation Guarantee Program. The Secretary would be authorized to establish a fee system to collect an annual fee of up to four percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust Fund.

The bill would also require that (1) a Council member be recused from voting on a Council decision if there is a conflict of interest; (2) each Council record all roll call votes; and (3) the Council procedures and conflicts of interest. The bill would provide for a fisheries stock recovery financing program under the Fishing Vessel Obligation Guarantee Program. The Secretary would be authorized to establish a fee system to collect an annual fee of up to four percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust Fund.

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The area, already struggling economically prior to the dam's completion, was devastated. By 1990, it was estimated that annual losses resulting from the cessation of family farm operations and the unrealized tourism benefits that had been promised with the dam amounted to $30 million in jobs and $8.5 million for the local economy per year. In fact, the only remaining legacy of the project is a fragmented landscape. It is dotted with scattered remains of former farm homes, and a 103-foot tall, concrete shell of the dam thatars along with approximately one-third of its students. Today, the median income is only slightly above half of the state average. And the heartbrokenness toward what is widely considered an irresponsible Federal boondoggle has been tempered only recently with plans for Federal deauthorization. Mr. President, that is why I am convinced the legislation we offer today is a best option. It provides for responsible local and State control, and fulfills the Federal Government's responsibility to this area. It is not often that we are able to consider truly beneficial proposals that local communities want and need. In this case, I am concerned about the fiscal implications of all legislation that I bring before this body. The Army Corps of Engineers estimates that if the LaFarge Dam were to be completed today, the total cost would be $102 million, of which only $18.6 million has already been expended. The legislation we offer completes the promised improvements to the area at a cost of $17 million—a substantial savings of $66.4 million over costs for dam completion.

In closing, Mr. President, I would like to extend my thanks to my colleagues who join me in introducing this legislation today. I also want to acknowledge the support and hard work of the people of the Kickapoo Valley in bringing this legislation to fruition.

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

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

S. 40

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

SECTION 1. KICKAPOO RIVER, WISCONSIN.

(a) PROJECT MODIFICATION.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1247; as modified by section 803 of the Water Resources Development Act of 1986 (100 Stat. 4169)), is further modified as provided by this section.
(b) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States in and to the lands described in paragraph (2), including all works, structures, and other improvements on the lands.

(2) LAND DESCRIPTION.—The lands to be transferred pursuant to paragraph (1) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in subsection (a) in Vernon County, Wisconsin, in the following sections:

(A) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(B) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(C) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(3) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer.

(4) DEADLINES.—Not later than July 1, 1995, the Secretary shall transmit to the State of Wisconsin an offer to make the transfer under this subsection. The offer shall provide for the land to be conveyed in the period beginning on November 1, 1995, and ending on December 31, 1995.

(5) DEAUTHORIZATION.—The LaFarge Dam and Lake portion of the project referred to in subsection (a) is not authorized after the date of the transfer under this subsection.

(6) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of the project referred to in subsection (a) until the date of the transfer under this subsection.

(c) COMPLETION OF PROJECT FEATURES.—

(1) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in subsection (a):

(A) The continued relocation of State Highway Route 131 and County Highway Route S, substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970, except that the relocation shall generally follow the road right-of-way.

(B) Construction of a visitor and education facility to be constructed under the project referred to in subsection (a) in existence on the date of enactment of this Act.

(C) Environmental cleanup and site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(D) Cultural resource activities to meet the requirements of Federal law.

(2) TRANSFER TO STATE OF WISCONSIN.—In undertaking the completion of the features identified in paragraph (1), the Secretary shall determine the requirements of the State of Wisconsin on the location and design of each such feature.

(d) COSTS.—The cost of the project referred to in subsection (a) is modified to authorize the Secretary to carry out the project at a total cost of $17,000,000, with a first Federal cost of $17,000,000.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term ‘‘Secretary’’ means the Secretary of the Army, acting through the Chief of Engineers.

Mr. KOHL. Mr. President, we in the Senate spend a great deal of time arguing about the appropriate role of the Federal Government. Certainly this past election has shown us that the American people are not in agreement about the role of the Federal Government. And I am proud to say that the ‘‘fix’’ to this problem also saves the taxpayers millions of dollars.

In the mid 1960s, Congress authorized the Corps of Engineers to build a flood control dam on the Kickapoo River at LaFarge in Vernon County, WI. In order to proceed with the project, the Corps of Engineers condemned 140 farms covering an area of about 8,500 acres. To LaFarge, a community of only 840 people, the loss of these farms dealt a significant blow to the local economy.

With the loss of economic activity, the community eagerly awaited the completion of the dam, and the creation of a lake that promised to provide some economic benefits in the form of recreational and tourism activities. But because of budgetary and environmental concerns, the project never happened. And the people of LaFarge were sorely disappointed.

But I am proud to say that the re-introduction of this bill today represents a milestone in the cooperative effort of the citizens of the Kickapoo River Valley, the state of Wisconsin, and local environmental leaders to turn this bad situation into an outstanding success for the community, the State, and the Federal taxpayers.

The LaFarge Dam legislation would modify the original LaFarge Dam authorization, returning the federally condemned property to the state of Wisconsin. Anticipating this action, the State Legislature and Governor Thompson acted last year to authorize the use of this 8,500 property as a state recreational and environmental management area.

The highway repairs envisioned by the original dam authorization would remain. Because the original authorization required an area to be flooded, the highway was targeted for relocation. The project has been in limbo all these years, the relocation never took place, nor have any improvements or needed maintenance been done on the highway. Now, over 30 years later, the road has fallen into extreme disrepair, and this bill would authorize the necessary road improvements.

The bill also reauthorizes the construction of a recreational facility to help interpret the surrounding environment for the visitors.

While the original dam and flood control project, in today’s dollars, would have cost the Federal Government $102 million, the modified project as authorized by the bill introduced today would only cost $17 million.

Late last year, both the House and Senate attempted to pass a Water Resources bill. A provision addressing the LaFarge dam project was included in the bill passed by the House, as well as the bill proposed for consideration in the Senate. Unfortunately, time grew short, and the bill was bogged down in the Senate Environment and Public Works Committee.

Mr. President, it is my hope that the House and Senate will be able to work together early in the 106th Congress to pass a Water Resources bill, and that this legislation will be included in that bill.

By Mr. BAUCUS (for himself and Mr. Burns):

S. 41. A bill for the relief of Wade Bomar, and for other purposes; to the Committee on the Judiciary.

WADE BOMAR RELIEF ACT

Mr. BAUCUS. Mr. President, today, along with Senator BURNS, I am introducing a bill for the private relief of Wade Bomar. This bill would provide Mr. Bomar with relief in the amount he would qualify for under the Public Safety Officers’ Benefit Act.

Almost 5½ years ago, Wade volunteered to help the Bureau of Indian Affairs extinguish the Pryor Gap Fire, which was threatening the Crow Indian Reservation. While fighting the fire, a burning 50 foot pine crashed down on Wade. The accident left him paralyzed and unable to work again.

As the fire raged in the Pryor Gap, the Senate was debating the Public Safety Officers’ Benefit Act [PSOBA]. The bill passed and went into effect a few months later. Had Wade been injured a little while later he would have qualified for a payment of around $100,000 under this Act.

Wade, the father of three young children, has dealt with his injury courageously. But beyond the physical and emotional pain, the accident left him and his family without medical insurance provided by his former job as a laborer to help pay for the huge medical bills. Because of these medical bills, he can’t afford health or dental insurance for his children.

Wade is a strong and courageous fighter, and I know he can make it on his own. But unable to work, the injury has left him with a hospital debt that...
he simply will not be able to pay. With the money provided by this bill, Wade will be able to pay off his student loans and at least expect some security from his family.

This very bill passed the Senate unanimously last October. Unfortunately, time was short, and the House of Representatives failed to act. My hope is that Congress will act soon to provide Wade the relief he has earned.

I extend my appreciation to my colleagues in the Senate who supported this effort in the 103d Congress. And I ask for their support again to do what is right by a man who was injured while helping others.

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

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

S. 41

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

SECTION 1. RELIEF OF WADE BOMAR.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $100,000 to Mr. Wade Bomar in full payment of a claim for injuries sustained by Mr. Bomar in the line of duty on August 6, 1989, while fighting the Pryor Gap fire, permanently depriving him of the use of his limbs.

By Mr. FEINGOLD:

S. 42. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIVERSITY OF HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, I am today reintroducing legislation terminating the Uniformed Services University of the Health Sciences [USUHS]. This is a proposal that is familiar to members of the 103d Congress and is part of my 82-point plan to reduce the Federal deficit which I proposed when I ran for the U.S. Senate in 1992.

USUHS is a medical school run by the Department of Defense [DOD]. Along with the Armed Forces Health Professionals Scholarship Program [AFHPS] and other sources, including volunteers, it provides physicians for the military.

Created in 1972, USUHS was intended to supply the bulk of the military's physician requirements. Today, USUHS only accounts for a fraction of the Department's needs—less than 9 percent in 1991. According to the Congressional Budget Office [CBO], USUHS training is particularly troubling as the inspection of this facility, rather than limiting it to a tiny percentage of military physicians, perhaps the mission of USUHS should be refocused in this direction.

Mr. President, another area of concern is how USUHS is meeting the needs of today's military structure.

The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program. And there may be evidence that more USUHS-trained physicians may remain in the military longer than those from other sources.

But there does not appear to be a good understanding of what factors might contribute to longer retention rates. The body of students entering USUHS, for example, is disproportionately made up of members of the military, an aspect of USUHS graduates which may have a large impact on their retention rates, and a feature that could be built into the military's alternative physician sources if needed.

Nor is there any systematic analysis of how retention rates compare to the needs of the services for military physicians during a period of downsizing. This issue may be of particular relevance given the downsizing of our force levels.

Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel suggested that, based on a 1989 study, it needed to maintain a 10 percent of retention rate of physicians beyond 12 years, and that alternative sources like the AFHPS may already be meeting the retention needs of the services.

That prompted the chairman of the Armed Service Committee, the senior Senator from Georgia [Mr. Nunn], to question, during hearings held in the 103d Congress, whether these figures meant that we are retaining a more senior force than we need, a crucial consideration in determining the role of USUHS. This is a question GAO is addressing in its review.

Mr. President, another question that can be raised is what other options are available to provide the unique contributions of USUHS. Suggestions have been made that civilian medical schools could provide the basic medical education with USUHS taking over a greater role in graduate and specialized military medical education.

Since 90 percent of the military physicians come from sources other than USUHS, it is fair to ask whether all military physicians should receive some specialized training along the lines offered at this facility, rather than limiting it to a tiny percentage of military physicians. Perhaps the mission of USUHS should be refocused in this direction.

Mr. President, these are all important matters that certainly merit examination, and I look forward to reviewing the work that the GAO will be doing in its study.

I expect GAO to have much of its work done in time for consideration of the future of USUHS, and the legislation I am introducing today, during the
1995 deliberations on the Department of Defense authorization and appropriations bills.

Mr. President, in conclusion, let me say that I fully recognize that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the Federal Government can no longer afford to continue every program that provides some useful function.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all Federal spending programs.

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

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

S. 42

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1995".

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(1) Termination.—(A) The Uniformed Services University of the Health Sciences is terminated.

(B) The table of chapters at the beginning of title 10, United States Code, is amended by striking out the item relating to chapter 104.

(2) Effective Date.—The termination referred to in subsection (a), and the amendments made by such subsection, shall take effect on the date of the graduation from the Uniformed Services University of the Health Sciences of the last class of students that enrolled in such university on or before the
day of

By Mr. FEINGOLD:

S. 43. A bill to phase out Federal funding for the Tennessee Valley Authority, to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 43, legislation that phases out funding for the Tennessee Valley Authority, and reduces the deficit by about $600 million over 5 years.

The Tennessee Valley Authority [TVA], a federally owned and chartered corporation created in 1933, is one of the largest electric utilities in the country, supplying power to an 80,000 square mile, 125 county, 7 State region.

In addition to providing power, however, the TVA operates several other programs. Federal appropriations to the TVA support programs concerning nonpoint-source water pollution; economic development; a stewardship program that maintains a system of dams, reservoirs, and manages 300,000 acres of public land; recreational programs including the Land Between the Lakes region in the western part of Tennessee and Kentucky; a fertilizer research center; and other programs.

Mr. President, this legislation phases out Federal funding for TVA over 2 years. Funding for the fertilizer research center is eliminated beginning in fiscal year 1996 and funding for other activities is phased out by fiscal year 1997.

The legislation directs the Office of Management and Budget to submit a plan to Congress by no later than January 1, 1996, outlining which programs the TVA will continue and how they will be funded, and which programs will be turned over to other entities.

Mr. President, Federal law requires the TVA's electric power program to be financially self-supporting, and the Congressional Budget Office [CBO] has noted, in its March 1994, report "Reducing the Deficit: Spending and Revenue Options," that "because many of TVA's stewardship activities are necessary to maintain its power system, their costs would more appropriately be borne by users of the power," rather than the Federal taxpayer.

In its 1992 study of energy subsidies, the Department of Energy reported that the TVA power operation benefits from a significant subsidy already, the ability to borrow capital at much lower interest rates than paid by investor-owned utilities, an advantage the Department of Energy reported was $251 million in fiscal year 1990. Federal taxpayers should not be expected to pay the additional costs of supporting power-related stewardship activities.

The CBO report also stated that other activities could be discontinued, or their costs could be recovered from State and local governments and others who more directly benefit from those activities, or through TVA's power rates.

Mr. President, this makes sense, especially at a time of on-going Federal budget deficits when we have asked farmers, veterans, retirees, and small businesses to sacrifice in order to address those deficits.

Similarly, the National Environmental Research Center, which costs Federal taxpayers $35 million annually, could be more appropriately funded by the private sector beneficiaries of its work, or by competing for research grants as other research institutions already do.

In assessing the savings generated by their similar proposal, the CBO estimated that eliminating many of the activities supported by appropriations and increasing the funding from non-Federal sources could save $610 million over 5 years.

Mr. President, in the middle of the Great Depression there may have been good reasons to create a Federal agency charged with broad powers over a distinct region of our country. But a structure that relies on a distanced appointment process can not be as truly responsive to the needs and preferences of local residents as one which is more directly beholden to those residents.

At the same time, given the singular nature of TVA and its special history, many residents and State and local governments may feel it is appropriate for TVA to continue some activities. And to the extent that Federal taxpayers are not asked to subsidize them, this legislation would not restrict the ability of TVA to continue operating those programs, consistent with the plan that the Office of Management and Budget will submit to Congress.

Mr. President, the Tennessee Valley Authority was born in the New Deal and at that time it may well have been the appropriate model to address the many problems facing the region it serves.

But we need to reassess that model, redistribute the burden of some activities to those who benefit from them, allocate other activities to private or public entities where appropriate, and help reduce the Federal deficit.

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

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

S. 43

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. TENNESSEE VALLEY AUTHORITY.
(a) DISCONTINUANCE OF APPROPRIATIONS.— Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 833) is amended—
(1) by inserting for fiscal years ending with fiscal year 1998 (or, if later, 98) before the period; and
(2) by adding at the end the following: “No appropriations may be made available for the National Center for Environmental Research for fiscal year 1996.”.
(b) REPORT.—Not later than January 1, 1996, the Director of the Office of Management and Budget shall submit a plan to Congress that—
(1) describes the programs that should continue to be operated by the Tennessee Valley Authority and the funds necessary to carry out the programs described in subsection (a) of this section for fiscal years ending with fiscal year 1996; and
(2) describes the programs that the Tennessee Valley Authority should discontinue or should continue to be operated by the Tennessee Valley Authority and the funds necessary to carry out the programs described in subsection (a) of this section for fiscal years ending with fiscal year 1996; and
(3) recommends any legislation that may be necessary or appropriate to carry out the purposes of this Act.

By Mr. REID (for himself and Mr. BRYAN):
S. 44. A bill to amend title 4 of the United States Code of limit State taxation of certain pension income; to the Committee on Finance.

SOURCE TAX LEGISLATION

Mr. REID. Mr. President, today I rise to reintroduce legislation that passed the House and Senate in the 102d Congress and passed this body twice in the 103d. It is legislation in which all Members of Congress have a stake.

The bill which I introduce will eliminate a State’s ability to tax a nonresidents’ pension income. As the situation stands now, retirees in every State may be forced to pay taxes to States where they do not reside. The retiree pays taxes on pensions drawn in the States where they spent their working years, despite the fact that they are no longer present to participate in medical assistance programs or senior centers, nor do they use the roads or public parks that these taxes are helping to fund. Most important of all, they don’t even get to vote in their former State of residence—yet they still pay taxes there. It has been said many times, and I would agree, this is a clear case of taxation without representation.

I would like to relate to my colleagues an example illustrating the inequity of the practice of source taxing pension incomes on nonresidents. The story I tell is what happened to a Nevada citizen, but it could be happening in any State.

An older woman who lives in Fallon, NV has an annual income of between $12,000 and $13,000 a year. She is not rich, but she is surviving. One day the mail carrier delivers a notice from California that says she owes taxes on her pension income from California, plus the penalties and interest on those taxes. She cannot believe it but, being an honest person, she tells California that she has never paid these taxes in the past and asks why she is being assessed at this time. Mr. President, to make a long story short, the California Franchise Tax Board went back to 1978 and calculated her tax debt to be about $6,000. Plus interest, this woman’s income is only $12,000. Most citizens pay their taxes honestly and without too much complaining, but when they are taxed by a State where they do not reside, they begin to get upset with the system. I would like to pass another case that illustrates the problem.

In 1971 a Washington State resident went to work at a Federal penitentiary on McNeil Island, WA. In the late 1970’s the Bureau of Prisons began closing the facility and reducing the staff. This man challenged what the two choices. He could resign and give up 9 years toward retirement or he could transfer to a Federal center in San Diego. He closed the latter and went to work for the Bureau of Prisons.

When this gentleman retires he plans on returning to the State of Washington where he still owns a home. He wants to be near his children and grandchildren, as they still reside in Washington.

Although the State of Washington has no State income tax, this man learned that he will be subject to California’s source tax on his pension income when he returns to Washington. This man was prodded by the system to move to California because the Federal Government closed down the prison where he worked to maintain his income and continue building his pension he moved. Nevertheless he always intended to move back to Washington. Needless to say, he is justifiably angry. Let me read to you an excerpt from his letter to me.

The so called source tax appears to be grossly illegal and contrary to the rights guaranteed by our Constitution. That being the case, I am amazed that our Congress does not take immediate action to abolish such totally illegal state levies. I am sure you understand that people employed by the federal government could serve in numerous states throughout the country retiring to their home states. It is absolutely ridiculous, insidious and downright illegal for those states to levy an income tax against a nonresident. It is mind-boggling that a paid employee, retiree, or any other retiree living in a state that has no income tax could be paying income tax to as many as 13 states.

He continues his letter.

Couple this tax with the ridiculously high cost of medical care, hospitalization and other fast rising consumer costs, and it should be quite evident that people will not be able to survive on retirement income.

Mr. President, this issue was brought to my attention a couple of years ago by a Nevadan named Bill Hoffman. He told me about the cases I have related to you and many others. Bill informed me that retirees were being harassed by their former States because of this tax, commonly called a source tax. In fact, he was told that such state agencies that eventually he and his wife, Joanne, began organizing the people that were affected. Eventually they formed a group known as Retirees to Eliminate State Income Source Tax (RESIST).

RESIST was founded in July of 1988 in Carson City, NV. In the less than 4 years since its beginning, RESIST membership has grown to tens of thousands of members. It includes members of every State of the Union. It is truly a nonprofit, grass roots organization. It operates entirely on the work of volunteers. No members are salaried.

The credibility of RESIST has convinced other long-established organizations, such as the National Association of Retired Federal Employees (NARFE), the National Association for Uniformed Services, with 60,000 members, and the Fund for Assuring an Independent Retirement (FAIR) to make a commitment to the prohibition of the source tax on pension income.

In the beginning, this issue affected mostly retired Government employees because of easy access to their records. However, as economic times become tougher, and State budgets are straining for additional revenues, the source tax is becoming an ever more popular revenue source. As an example, I have copies of letters from Ford and Rockwell that were sent to their retired employees telling them that they must report tax liabilities for the States that collect the source tax. Other companies have followed suit. As a result, the American Payroll Association has joined the coalition that wants to prohibit this tax.

We are all aware of the increased mobility that Americans have come to know. Many people today plan to retire in places other than the area they worked. The recent growth of Nevada is ample evidence of this. There are many reasons for it. People might want to live in a warmer climate. Or, possibly their families have moved and they want to join them. Whatever the reason, they spend their working years saving enough to be able to retire to their chosen area. You can imagine the shock and then dismay when they receive a notification that back taxes, along with penalties and interest are owed to their old State of residence. The shock is from the fact that they receive no services and no representation. The dismay comes from the often inability to pay a sometimes enormous tax debt when one lives on a fixed income.

To prohibit this unethical practice, I am reintroducing this legislation which prohibits States from taxing pensions or retirement income of nonresidents, taking into consideration the way the State defines a resident.

State budgets are experiencing economic hard times. It won’t take long for States to realize that taxing someone from another State is an easy way to increase revenues without paying the political price. In other words, unless this legislation is passed, you can be assured that more and more States will begin to impose this unfair tax for which no one is accountable.

In conclusion, there is no cost to the Federal Government to prohibit the practice of source taxing the pension income.
Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 45, the Helium Reform and Deficit Reduction Act of 1995, legislation to phase out the Federal Helium Program. The measure is based on the excellent legislation introduced in the other body during the 103d Congress by Representatives Cox and Frank, and a similar bill introduced by Representatives Lehman, Vucanovich, and Miller.

The legislation will produce real savings both in the near term, as operations are phased out, and over the long run, as the stockpile of helium is sold off.

Analysis by the Congressional Budget Office (CBO) of similar legislation last year estimated that, under that bill, Federal agencies and contractors were required to buy helium from the Bureau of Mines. The measure directs the Secretary to require the Secretary of the Interior to buy helium from the Bureau of Mines.

Mr. President, the Helium Act of 1925 was initiated in large part because of the potential military importance of helium. It authorized the Bureau of Mines to build and operate a helium extraction and purification plant, which went into operation in Amarillo, TX in 1929.

According to the General Accounting Office, a nominal private helium industry existed in the United States before 1937, but between 1937 and 1960, the Bureau of Mines was the only domestic helium producer, selling most of what it produced to other Federal agencies, but also supplying some to private firms.

With the advent of space exploration and the growth of defense programs, the Federal Government’s demand for helium was expected to grow dramatically, and in 1960, Congress amended the Helium Act to provide incentives for stripping natural gas of its helium, for purchase of the separated helium by the Government, and for its long-term storage in the Cliffside Reservoir near Amarillo.

Today, helium is used in large quantities in space, defense, an advanced energy systems. Its major uses include cryogenics, growth in defense, superconductivity applications, cover gas in welding, and for pressurizing and purging fuel tanks and vessels in the space program. It is also used in breathing gas mixtures for deep sea diving, controlled atmospheres for growing crystals for transistors, heat transfer mediums for nuclear power generators, leak detection, chromatography, and as a lifting gas for blimps.

As a result of the 1960 Act, four private natural gas producing companies built five helium extraction facilities and entered into 22-year contracts with the Bureau of Mines.

However, instead of appropriating funds for the helium program, the 1960 act authorized the Secretary of the Interior to borrow from the Treasury up to $47.5 million per year, at compound interest, to purchase helium.

The act stipulated that the Bureau of Mines set prices that would cover all of the program’s costs, including debt and interest, and provided a period of 25 years to pay back the debt, subsequent to the act. In addition, Federal agencies and contractors were required to buy helium from the Bureau of Mines.

Mr. President, to a certain extent, the 1960 changes to program have succeeded. The Federal Government has created private helium operations. Prior to the 1960 act, the Federal Government owned the only helium extraction plants in the world. Today, 90 percent of the helium produced in this country comes from private operations.

Unfortunately, the 1960 act also led to a growing Government-run operation. The borrowing done to pay for helium purchases has not been paid back, with the program now having accumulated a debt of approximately $1.4 billion to the treasury, and a stockpile of helium that some have suggested could supply the Government’s needs for the next 80 to 100 years.

Mr. President, the measure I have introduced directs the Secretary of the Treasury to phase out the Federal Helium Program, to require the Secretary to dispose of all facilities and equipment, and to the treasury, and dedicate the revenues that will go to the treasury, and deduct the revenues from the sale of the facilities, equipment, and helium reserves to the repayment of that debt.

The measure directs the Secretary to begin selling off the helium reserves owned by the Government. The sale of these reserves would be done over time to ensure that taxpayers will receive a fair price for the helium they have financed, and to minimize disruption of the private helium market.

This legislation freezes the current debt owned by the helium program to the Government’s existing level, and requires that the revenue from the sale of the facilities, equipment, and helium reserves to the repayment of that debt.

Finally, the measure that annual financial statements be prepared describing the financial position of the helium operations, including a statement of what the interest payments on the outstanding repayable amounts would have been under the arrangements initiated in the 1960 act.

Mr. President, as I noted earlier, the CBO analyzed similar legislation last year, and estimated that under that measure income to the Federal treasury from the helium program would result in a double as are phased in, with income exceeding expenses by about $16 million annually in fiscal year 1999 under the legislation, compared with $8 million annually estimated for CBO baseline calculations.

Though these are very real savings, they will be additional to the savings for the treasury as well under this legislation, including additional revenues that would accrue to the treasury from the sale of facilities and equipment, and the value to the treasury of the bulk of the helium stockpile that will remain well after the 5-year budget window.

Though the helium stockpile is valued at $373 million in the Helium Fund Budget, the Congressional Research Service reports that the value of the crude helium in the Government’s Cliffside Reservoir is worth about $1 billion if it were sold at rates ranging from $25 to $35 per thousand cubic feet, and a reported $1.6 billion if it were sold at today’s prices.

Mr. President, supporters of the helium program argue that the roughly $1.4 billion in debt that has accumulated should be disregarded. They maintain that since the debt is owed by one agency of the Government to another, it is only a bookkeeping dispute. That is not an acceptable description of the matter. First, though it is true that in a sense, the Government owes the money to itself, those who would defend the helium program cannot selectively pick and choose those program costs to be included and those that are not to be included in assessing the program’s efficiency. The debt was created because of borrowing by the program from the Federal treasury, borrowing that was used to fund the significant assets of the program, including the massive helium stockpile. It is deceptive to suggest that the overall productivity of the program should be measured without taking into account the borrowed capital which produced the giant stockpile of helium on which the program is drawing.

Second, and just as important, the funding provided for this enterprise came at the cost of other governmental activities and an increased Federal deficit. The funds borrowed over the years could have been used for education, health care programs, national defense, small business programs, lower income taxes, or a lower Federal budget deficit. The debt that has been accumulating is a measure of the opportunity cost of that decision, and will be a measure of the opportunity cost to continue the helium operation should this legislation not pass.
Mr. President, supporters of this program also argue that the program is as efficient as private sector helium producers and that the program produces helium at competitive rates. They maintain that their revenues exceed their cost of operation, if one excludes the debt payments they owe the Federal Government.

But, Mr. President, the facts do not bear this out. In part due to outdated plant and equipment, the Federal Helium Program is much less efficient than private sector helium refiners, producing one-third as much with more than four times the number of employees.

Further, the Helium Advisory Council suggests that the Federal program understates the true costs of its helium production, in part because they do not include the cost of the crude helium purchased with the very funds borrowed from the taxpayers.

The Council also notes that royalty payments to the Bureau of Mines for helium extracted by private companies from Federal land are used to subsidize the continuing operation. Mr. President, though I dispute the contention that the Federal Helium Program is an efficient and competitive producer of helium, I want to stress that even if the Government was doing a competent job of producing helium, that is not a sufficient argument for the continuation of a program that is no longer needed.

Though at one time there may have been an appropriate role for a Government-run helium program, there is now a sufficiently mature private helium industry to which the Government can turn for its helium needs.

Mr. President, the time has come for the Federal Government to get out of the helium business. The Federal Helium Program is no longer needed, and we should begin to dismantle this operation as soon as possible in the most cost effective manner.

This legislation does precisely that. Mr. President, I ask unanimous consent that a copy of the legislation be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 45

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 “Helium Reform and Deficit Reduction Act of 1995.”

SEC. 2. AMENDMENT OF HELIUM ACT.

Excerpts otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is considered to be a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 3. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

“SEC. 3. AUTHORITY OF SECRETARY.

(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms, conditions, and rules as the Secretary deems fair, reasonable, and necessary. (2) APPLICABILITY.—The Secretary may grant leasehold rights to any such helium.

(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

(5) ENSURING COMPETITION.—Paraphrase paragraph (1) shall be subject to any rights or interests to the extent that such agreements are renewed or extended after that date.

(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) and any extension or renewal of an agreement shall contain such terms and conditions as the Secretary may consider appropriate.

(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands taken in the same decade as the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

(8) STORAGE, TRANSPORTATION, AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

(9) MONITORING AND REPORTING.—The Secretary may monitor helium production and helium reserves in the United States and periodically report to Congress the amounts of helium produced and the quantity of crude helium in storage in the United States.

SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

(a) STORAGE AND TRANSPORTATION.—The Secretary may store, transport crude helium, maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

(b) CESSION OF PRODUCTION, REFINING, AND MARKETING RIGHTS.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing helium, and cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

(b) AMOUNT OWNED BY THE UNITED STATES.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Helium Act of 1995, the United States shall sell or otherwise dispose of all helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at the date of enactment of the Helium Act of 1995, less 250,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 5(b).

(c) DISPOSAL OF FACILITIES.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and rights thereto for purposes of producing, refining, and marketing refined helium.

(2) APPLICABILITY.—Applicability of this provision shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or disposal of such property shall be deposited into the fund established under this chapter for purposes of section 6(f).

(4) COSTS.—All costs associated with such sale and disposal, including costs associated with the transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

(d) EXISTING CONTRACTS.—(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of enactment of the Helium Act of 1995 shall remain in effect until the date on which the facilities described in subsection (c) are disposed of.

(2) COSTS.—All costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

SEC. 5. FEES FOR STORAGE, TRANSPORTATION, AND WITHDRAWAL.

(a) IN GENERAL.—Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).

SEC. 4. SALE OF CRUDE HELIUM.

Section 6 is amended—

(1) in subsection (a) by striking “from the Secretary” and inserting “from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary”;

(2) in subsection (b)—

(A) by inserting “crude” before “helium”; and

(B) by adding the following at the end: “Except as may be required by reason of paragraphs (a) and (b), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.”;

(3) in subsection (c)—

(A) by inserting “crude” after “Sales”;

and

(B) by striking “together with interest as provided in this Act” and inserting “for years beginning after December 31, 1994”.

(4) by striking subsection (d) and inserting the following:

“(d) EXISTING CONTRACTS.—“(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of enactment of the Helium Act of 1995 shall remain in effect until the date on which the facilities described in subsection (c) are disposed of.

(2) COSTS.—All costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).”

SEC. 4. SALE OF CRUDE HELIUM.

Section 6 is amended—

(1) in subsection (a) by striking “from the Secretary” and inserting “from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary”;

(2) in subsection (b)—

(A) by inserting “crude” before “helium”; and

(B) by adding the following at the end: “Except as may be required by reason of paragraphs (a) and (b), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.”;

(3) in subsection (c)—

(A) by inserting “crude” after “Sales”;

and

(B) by striking “together with interest as provided in this Act” and inserting “for years beginning after December 31, 1994”. 
"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).";

(5) by striking subsection (e); and

(6) in subsection (f), by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(B) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(C) by striking subsection (e); and

(D) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(E) by striking subsection (e); and

(F) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(G) by striking subsection (e); and

(H) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(I) by striking subsection (e); and

(J) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(K) by striking subsection (e); and

(L) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(M) by striking subsection (e); and

(N) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and

(O) by striking subsection (e); and

(P) by adding at the end:

"(2) (A) Within 7 days after the commencement of each fiscal year for which the sale of helium is required to be made, the Secretary shall provide the Inspector General in carrying out paragraph (A) of subsection (B) of this section; and
become an inherent financial advantage to incumbents for several reasons. It facilitates the ability to raise large amounts of money, be it from large contributors or political action committees, or from other such sources. Members of Congress also have other advantages, such as the ability to use the phone to send free mass mailings to their constituents in the midst of a reelection campaign. Yet, this same type of advantage arises when an individual with large personal wealth enters a race for an open seat or a primary election. It is the power of big money derived from the benefits of incumbency or the financial advantages of a wealthy candidate running for an open seat, that distorts our current electoral process. The unfortunate result is that we have a system that discourages individuals without access to large sums of money from running for elected office. I know this all too well because as I prepared to run for the United States Senate, I was constantly told that I was well-qualified to be a candidate, but that I shouldn’t run because I didn’t have the financial resources to win such a race. Too few people have the ability to do what the current system requires of them to run an effective, competitive campaign—raise and spend millions of dollars. If you are a powerful member of the Senate Appropriations Committee as was my opponent in my 1992 election, and you have the ability to raise the nearly $6 million that he accumulated for that campaign, then the current system accommodates you. If you are independently wealthy and decide you would like to use your wealth to run for elected office, as the current trend seems to be, then the current system accommodates you. But if you are a schoolteacher, and serve part-time on your city council, or a State legislator and a bricklayer by trade, and decide that you would like to run for the United States Senate, then the current system tells you that you are not qualified to be a candidate, and that I shouldn’t run because I didn’t have the financial resources to win such a race. I have come to learn that there is another trait of our current campaign finance system that is antithetical to our political system, and that is the amount of time Members of Congress, that is, incumbents themselves, must spend raising funds for their reelection campaigns. If I have been struck by any single factor since become a Member of the Senate, it is that Members must go “between the lines” of my chamber. And yet on top of all this work, Members of Congress are told by their advisers that they must raise money at a feverish pace for their reelection efforts, beginning the day after they are elected to a new 6-year term. It has been estimated that the average cost to run for reelection to the United States Senate is some 4 million dollars. That means that during a 6-year Senate term, one would have to raise, on average, over 13,000 dollars a day to finance a reelection effort. The problem with this is, how can Members of Congress be expected to fulfill their legislative duties when so much time is required to raise this kind of money? We must learn that we should not have a system that forces a Member of Congress to forego certain legislative duties in favor of political fundraising. I have heard stories of Members missing late Friday night votes because of prior commitments to attend fundraisers. I do not believe that these votes would have been missed had our current system not placed such a heavy emphasis on the importance of raising money for reelection campaigns.

There is another issue here that we should address. Many incumbent Members of Congress focus their fundraising efforts on large individual contributors or Political Action Committees, or PAC’s, often from outside of their home states, where the big money is, and these sources are eager to contribute to Members who may protect or advance their interests. But we should ask ourselves if it is good for our political system to have legislators devoting so much of their time raising funds from large contributors and special interest groups from other States, rather than maintaining contact with their own constituents? Most of our constituents cannot afford to give $500 or $1,000 to a candidate, and few have the clout and influence possessed by those that control a PAC. By primarily focusing fundraising efforts on large contributors and special interests, Members of Congress are sending a message—hoping for a false message—that America’s finite resources are available to special interest groups to have special access to and influence with an elected representative. Such perceptions are the offspring of this dependence on special interest money and have fueled the public’s growing disenchantment with our political system. It is little wonder under our current campaign financing system that the American people increasingly view Congress as an institution that is dominated and controlled by special interests.

Another aspect that permeates the current system is the presumption that a campaign contribution is a give-to-some-form-of-repayment by the recipient. I remember one individual who gave a contribution, then hinted that if I won the election and hired his nephew, there might be more contributions. Yet, as I have watched some of my colleagues purchase living rooms for their constituencies this year, it is clear that personal benefits can arise when an individual with large funds in his campaign for the president. This kind of reform would help extinguish public perceptions that the legislative branch of Government is run by special interests.

Mr. President, I recognize there has been much criticism directed at public financing in the past. Critics contend that it is an incumbent-protection program and that the taxpayers would never stand for such a system. Yet, the only current public financing system we have for federal elections, the presidential system, has been a good model for reform. In the nearly 20 years of this system’s existence, I have not heard it criticized for being unfair or not providing fair opportunities to candidates dominated by special interests. In fact, there are Members of Congress, some who have heavily criticized the concept of public financing for congressional elections, who have accepted public funds in their campaigns for the presidency. Had it not been for the availability of those funds, I suspect many of these members would not have been able to attempt such an election bid. And that is exactly the dilemma faced by many qualified individuals who are interested in elected office. Public financing has been a success for presidential elections and there is no reason why it would not be equally successful for congressional elections.

The task of mending our current campaign finance system is immense, but the bill I am introducing today will make significant progress towards addressing the flaws of our current system that I have just discussed. This bill will establish voluntary spending...
limits based on each state's individual voting age population. With the cooperation of the candidates, this bill will finally curtail the skyrocketing spending—spending that has plagued political campaigns in recent years. Just as important, these spending limits will allow members of Congress to focus on their duties and responsibilities as elected officials rather than spending substantial amounts of time raising money. For those candidates that do abide by the spending limits, there will be matching funds in the primary election for contributions under $250; once a candidate has raised 10 percent of that State's spending limit in contributions of $250 or less, half of which must come from within the candidate's State. There will be a 100 percent match for contributions under $100, and a 50 percent match for contributions between $101 and $250. These provisions, along with only providing matching funds for in-state contributions, will encourage candidates to focus on smaller contributions from their home states. I believe this focus upon raising money within our home States is critical; money raised within a state already speaks for itself at election time. The bill will also provide 90% public funding for general elections, again, once a threshold has been met. This funding will be in the form of direct payments, as well as discounted postage and discounted broadcast media rates.

This bill will also ban contributions from political action committees, with a backup provision that will severely limit their influence if the Supreme Court rules such a ban unconstitutional. The bill will require greater disclosure of so-called 'soft money', that is, the unregulated money that finds its way into campaigns which affect Federal elections. The bill will include several other provisions as well. It will prohibit, for example, from being spent for mailings, fraked mass mailing during the year of that Senator's election. It addresses lobbyists by prohibiting them from contributing to Senators that they lobby and from lobbying those they contribute to, in the 12 months before an election. The bill will codify a recent ruling by the Federal Election Commission that bars candidates from using campaign funds for personal purposes, such as mortgage payments, country club memberships and vacations.

Mr. President, there are certainly other reforms that have been proposed by various individuals in recent years and I welcome additional suggestions and ideas. The elements addressed in this bill, however, are designed to focus upon the major problems that should be addressed in Senate campaigns. The bill does not include provisions relating primarily to House elections or changes in the presidential campaign system but certainly additional proposals in these areas would not be inconsistent with the measures emphasized in this legislation.

Mr. President, obviously there are various ways to approach campaign finance reform, but I want to highlight the fact that my bill has a special focus on two essential elements of campaign finance reform—voluntary spending limits and an emphasis upon raising a majority of funds within your home State rather than special interests in Washington, D.C. I believe that the fact that so much of the money being raised in recent campaigns comes not from the people who will be represented by the winner of the contest, but from wealthy individuals and special interests outside the State where the election is being conducted. During my 1992 campaign for the United States Senate, I pledged to raise a majority of my campaign funds from within the State of Wisconsin because I found it to be fundamentally wrong for candidates for public office to be focusing their campaign efforts on contributors from outside the districts they were seeking to represent. Some will argue that candidates should be allowed to raise funds from family, friends and supporters outside of their home States. My bill does not prevent this—it merely restricts access to public assistance only to those candidates who agree to raise the majority of funds within their home States. As I have indicated, limiting out-of-state contributions is a broadly supported concept that has transcended party lines in the past. Such limits were not only included in campaign finance bills introduced in the last Congress by Democrats, but also in reform bills offered by Republicans. Senators DOMENICI and PACKWOOD included out-of-state contribution limits in their respective bills, as did Senators DOLE and MCCONNELL in their bill which was co-sponsored by 24 Republican Senators. Similar restrictions have been included in reforms proposed by the Republican leader in the House of Representatives in the 103rd Congress, Bob Michel. The out-of-state fundraising limits included in this bill would be an important step towards making candidates for elected office more accountable to the voters in their home States.

To fund the public benefits included in this bill, the legislation would create a modest donation. Candidates would agree to limit their expenditures more modestly and would free our political system from the grip that special interests have had for so many years, then it is worth it to you to give $5 dollars a year to this system. If such a system does not appeal to you, simply do not check the box. But I have faith in the American people, Mr. President, and I am convinced that if we offer them the true reforms that they have been demanding for so many years, they will support a system that merits such a modest donation.

Mr. President, we have a system that is virtually out of control. During the 1994 elections, congressional candidates spent close to $900 million—an 18 percent increase from the 1992 spending level and a 50 percent increase from the 1990 level. Every campaign season, millions and millions of dollars are spent on political campaigns and the result has been an election system that is tailored almost exclusively for candidates that are well-financed or well-connected. The public benefits included in my bill will provide candidates who agree to limit their expenditures more than enough financing to adequately represent our campaign system to the people we represent. If individuals want to participate financially, they do not have to write a check for $1,000 or $10,000. They can check the box to give $5 dollars. When they pay their taxes and know that they are supporting a fair and equitable election process. If they want to run for office, they will have the financial opportunity if they can meet a certain expenditure limit, thus their ideas and viewpoints represent a broad base of support and deserve recognition.

But most importantly, this bill will return our campaign system to the people we represent. If individuals want to participate financially, they do not have to write a check for $1,000, $500 or $1,000. They can check the box to give $5 dollars. When they pay their taxes and know that they are supporting a fair and equitable election process. If they want to run for office, they will have the financial opportunity if they can meet a certain expenditure limit, thus their ideas and viewpoints represent a broad base of support and deserve recognition.

And if we reverse the perceptions of a Congress dominated by special interests and convince the American people that their voices means something perhaps we can change the very troubling voter turnout figures that we have seen in recent elections.
We should not have a campaign finance system that favors either challengers or incumbents, wealthy individuals or those from limited means, candidates who are rank and file workers or those from the side of management. We should have a system that provides all qualified candidates an equal and an impartial opportunity to run for public office. The bill I have introduced today represents the comprehensive reform that the American people have asked for. I am hopeful that the Members of this body understand how important this problem is to our constituents, and how fundamental it is to our political system. We need to enact campaign finance reform legislation this year, and I look forward to working with my colleagues in passing a bill that truly addresses the flaws and inadequacies of the current system. 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:

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Campaign Financing and Spending Reform Act".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.
Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.

Subtitle B—General Provisions

Sec. 111. Broadcast rates and preemption.
Sec. 112. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 113. Reporting requirements for certain independent expenditures.
Sec. 114. Campaign advertising amendments.
Sec. 115. Definitions.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.
Sec. 302. Expenditures.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Reporting requirements.

TITLE IV—CONTRIBUTIONS

Sec. 401. Contributions through intermediaries and conduits; prohibition on certain contributions by lobbyists.
Sec. 402. Contributions by dependents not of the same household.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Limited exclusion of advances by campaign workers from the definition of the term "contribution".

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.
Sec. 504. Computerized indices of contributions.

TITLE VI—FEDERAL ELECTION COMMISSION

Sec. 601. Use of candidate names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Enforcement.
Sec. 605. Penalties.
Sec. 606. Random audits.
Sec. 607. Prohibition of false representation to soliciting committees.
Sec. 608. Regulations relating to use of non-Federal money.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Political data contributed to candidates.
Sec. 703. Sense of the Senate that Congress should consider adoption of a joint resolution proposing an amendment to the Constitution that would empower Congress and the States to set reasonable limits on campaign expenditures.
Sec. 704. Personal use of campaign funds.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Severability.
Sec. 803. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;
(2) permitting candidates for Federal office to raise and spend unlimited amounts of money establishes a fundamental flaw in the current system of campaign finance, and has undermined the public respect for the Senate as an institution;
(3) the failure to limit campaign expenditures has caused individual candidates to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;
(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns, and
(5) to prevent the appearance of undue influence and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR BAN ON POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of undue influence;
(2) contributions by political action committees to individual candidates have undermined public confidence in the Senate as an institution; and
(3) to restore public trust in the Senate as an institution, responsive to individuals residing within the respective States, it is necessary to encourage candidates to raise most of their campaign funds from individuals residing within those States.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;
(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) AMENDMENT OF FECA.—

(1) IN GENERAL.—FECA is amended by adding at the end the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS"

(2) CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.—

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

(1) meets the primary and general election filing requirements of subsections (b) and (c);
(2) meets the primary and runoff election expenditure limits of subsection (d); and
(3) meets the three contribution requirements of subsection (e).

(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

(A) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election expenditure limits of subsection (d); and

(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

(B) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

(C) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (g); and

(2) the candidate files with the Secretary of the Senate a declaration that—

(A) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election expenditure limits of subsection (d); and

(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

(B) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

(C) the candidate and the candidate's authorized committee—

(i)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (g); and

(3) the candidate has no liabilities or obligations to any other political committee of which the candidate, the candidate’s authorized committee, or the candidate’s agent is an authorized member.
“(ii) will only accept contributions for the primary and runoff elections from multicandidate political committees which do not exceed such limits; and
“(iii) will limit acceptance of contributions during an election cycle from individuals residing outside the candidate’s State to the lesser of—

(A) the date the candidate qualifies for the general election ballot under State law; or

(B) if, under State law, a primary or runoff election occurs after September 1, the date the candidate wins the primary or runoff election.

(g) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

(A) the date the candidate qualifies for the general election ballot under State law; or

(B) if, under State law, a primary or runoff election occurs after September 1, the date the candidate wins the primary or runoff election.

(h) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year beginning with calendar year 1998, based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1), the base period shall be calendar year 1992.

SEC. 502. LIMITATIONS ON EXPENDITURES.

(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senator or such candidate’s authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senator or such candidate’s authorized committees shall not exceed the lesser of—

(A) $5,500,000; or

(B) the greater of—

(i) $950,000; or

(ii) $400,000 plus

(1) 30 cents multiplied by the voting age population of the candidate, determined by subtracting from the number of persons 18 years of age or older in the State in which the candidate is a candidate for Senate not in excess of 4,000,000; and

(2) 25 cents multiplied by the voting age population in excess of 4,000,000.

(2) In the case of an eligible Senator candidate in a State which has no more than 1
transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

“(B) 10 cents for 30 cents in subclause (I), and”

“B) 70 cents for 25 cents in subclause (II).”

(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 301(f) (relating to indexing).

(3) (c) payment of taxes.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to a candidate’s authorized committees.

(4) expenditures.—For purposes of this title, the word ‘expenditure’ has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate’s authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

SEC. 5.03. benefits eligible candidate entitled to receive.

(a) in general.—An eligible Senate candidate shall be entitled to—

(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

(3) the amounts determined under subsection (b).

(b) amount of payments.—(1) For purposes of subsection (a), the amounts determined under subsection (b) are—

(A) the public financing amount;

(B) the independent expenditure amount; and

(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

(2) for purposes of paragraph (1), the limitations on such public financing amount—

(A) in the case of an eligible candidate who is a major party candidate and who has met 90 percent of the general election expenditure limit under section 501(e),—

(i) during the primary election period, an amount equal to 10 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A); and

(B) in the case of an eligible Senate candidate who is not a major party candidate and who has met the threshold requirement of section 501(e)—

(i) during the primary election period, an amount equal to the least of the following:

(I) if the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to the least of the following:

(I) if the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(B) in the case of an eligible Senate candidate who is not a major party candidate and who has met the threshold requirement of section 501(e) and

(i) during the primary election period, an amount equal to the least of the following:

(I) if the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to the least of the following:

(I) if the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(iii) during the general election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(B) in the case of an eligible Senate candidate who is not a major party candidate and who has met the threshold requirement of section 501(e)—

(i) during the primary election period, an amount equal to the least of the following:

(I) if the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(iii) during the general election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate’s State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e); and

(2) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

(3) any other reductions that exceed 75 percent of the general election expenditure limit under section 502 if any one of the eligible Senate candidate’s opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

(3) the amount of the contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

(4) subject to the provisions of section 350(b), to repay any loans made to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

SEC. 5.04. CERTIFICATION BY COMMISSION.

(a) in general.—(1) the commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The commission shall reissue such certification if it determines a candidate fails to continue to meet such requirements.

(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 501, the Commission shall issue a certification stating whether such candidate met all the requirements of this title and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—
mission determines that a candidate has made expenditures which in the aggregate exceed any limit described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

(3) **LARGE AMOUNT OF EXCESS EXPENDITURES**—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

(4) **TREASURY**—Any eligible Senate candidate who has received benefits under this title was not used as part of the cost of the campaign of a candidate for the office of United States Senator is seeking.

**SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.**

(a) **EXAMINATION AND AUDITS.**—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility described in this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission determines that a candidate has made expenditures which in the aggregate exceed any limit described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

(b) **DETERMINATIONS BY COMMISSION.**—All determinations (including certifications under subsection (a)) made by the Commission shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 725.

**SEC. 506. JUDICIAL REVIEW.**

(a) **JUDICIAL REVIEW.**—Any agency action by the Commission made under the provisions of this title shall be subject to judicial review in the United States Courts of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all other matters not filed under this title, to advance on the docket and expediently take action on all petitions filed pursuant to this title.

(b) **APPLICATION OF TITLE 5.**—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

(c) **AGENCY ACTION.**—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

**SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.**

(a) **APPEARANCES.**—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) **INSTITUTION OF ACTIONS.**—The Commission is authorized to institute actions through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts due under this title to be payable to the Secretary.

(c) **INJUNCTIVE RELIEF.**—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

**SEC. 508. REPORTS TO CONGRESS; REGULATIONS.**

(a) **REPORTS.**—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidates;

(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained by the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) **RULES AND REGULATIONS.**—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information as may be necessary to carry out the functions and duties imposed on it by this title.

(c) **STATEMENT TO SENATE.**—Thirty days before prescribing any rules or regulations under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and a detailed analysis and justification of such rule or regulation.

**SEC. 509. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.**

(a) **ESTABLISHMENT OF CAMPAIGN FUND.**—

(1) There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

(2) (A) There are appropriated to the Fund for each fiscal year, out of any amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

(i) any contributions by persons which are specifically designated as being made to the Fund;

(ii) amounts collected under section 508(h); and

(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

(C) Amounts in the Fund shall remain available without limitation.

(3) Amounts in the Fund shall be available only for the purposes of—

(A) making payments required under this Act and

(B) making expenditures in connection with the administration of the Fund.

(4) The Secretary shall maintain such accounts in the Fund as are necessary to account for payments under this title.

(b) **PAYMENTS UPON CERTIFICATION.**—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.
"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Senate, at the time of consultation with the Commission, shall make an estimate of—
(i) the amount of monies in the fund which are available to make payments required by this title in the succeeding calendar year; and
(ii) the amount of payments which will be required under this title in such calendar year.

(3)(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection.

The notice shall be by registered mail.

(3)(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of the contribution limit by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be further increased by the amount of such excess.

(2) EFFECTIVE DATES.—(A) Except as provided in this paragraph, the amendment made by this section shall apply to elections occurring after December 31, 1995.

(2) FOR purposes of any expenditure or contribution limit imposed by the amendment made by paragraph (1)—
(i) no expenditure made before January 1, 1996, shall be taken into account, except that there shall be taken into account any such expenditure or service for which payment has been made by reason of this section.

(ii) any cash, cash items, and Government securities on hand as of January 1, 1996, shall be taken into account in determining whether the contribution limit is not met, except that there shall be taken into account amounts used during the 60-day period beginning on January 1, 1996, to pay for expenditures which were incurred (but unpaid) before such date.

(3) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF THIS ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(b) PROVIDING TO FACILITATE VOLUNTARY CONTRIBUTIONS TO SENATE ELECTION CAMPAIGN FUND.—

(1) GENERAL RULE.—Part VIII of subchapter A of chapter 6 of the Internal Revenue Code of 1986 (relating to Senate Election Campaign Fund) is amended by adding at the end the following:

"Subpart B—Designation of Additional Amounts to Senate Election Campaign Fund"

"Sec. 6097. Designation of additional amounts to Senate Election Campaign Fund.

"(a) GENERAL RULE.—Every individual (other than a candidate alien) who files an income tax return for any taxable year may designate an additional amount equal to $5 ($50 in the case of a joint return) to be paid over to the Senate Election Campaign Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made for any taxable year only at the time of filing the income tax return for the taxable year. Such designation shall be made on the page bearing the taxpayer's signature.

"(c) TREATMENT OF ADDITIONAL AMOUNTS.—Any additional amount designated under subsection (a) for any taxable year shall, for all purposes of law, be treated as an additional income tax imposed by chapter 1 for such taxable year.

"(d) INCOME TAX RETURN.—For purposes of this section, the term 'income tax return' means the return of the tax imposed by chapter 1."

(2) CONFORMING AMENDMENTS.—(A) Part VIII of subchapter A of chapter 6 of such Code is amended by striking the heading and inserting:

"PART VIII—DESIGNATION OF AMOUNTS TO ELECTION CAMPAIGN FUNDS"

"Subpart A—Presidential Election Campaign Fund.

"Subpart B. Designation of additional amounts to Senate Election Campaign Fund.

"Subpart A—Presidential Election Campaign Fund".

(8) The table of parts for subchapter A of chapter 61 of such Code is amended by striking the item relating to part VIII and inserting:

"Part VIII. Designation of amounts to election campaign funds."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. BAN ON ACTIVITIES BY COMMITTEES IN FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 441a et seq.), is amended, by adding at the end thereof the following new section:

"BAN ON ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES.

"Sec. 323. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, and make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

(1) no contributions may be made by such individual;

(A) to any political committees established and maintained by any political party; or

(B) to any candidate for nomination for election, or election, to Federal office or the candidate's authorized committees, unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 441a(a)(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

(ii) receives contributions aggregating in excess of $5,000 during a calendar year;

(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year;

(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; or

(D) "any committee described in section 315(a)(8)(D)(ii)(III)."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (c).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed by a candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 301.

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate a national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 323 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not apply—

(ii) in the case of a candidate for election, or nomination for election, to Federal office (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000"; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or
nomination for election, to Federal office (or an authorized committee to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multi-candidate political committees to exceed the lesser of—

(A) $250,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $250,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the index shall be the calendar year 1996. A candidate or an authorized committee that receives a contribution from a multi-candidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) Rule Ensuring Prohibition on Direct Corporate and Labor Spending.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a) and (c) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or connected with a corporation which is a bank, corporation, or other organization described in section 316(a).

(f) Restrictions on Contributions to Political Committees.—Paragraphs (1)(C) and (2)(C) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)) are each amended by striking "$5,000" and inserting "$1,000.

(1) The Commission—

(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report;

(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the amount allowed under paragraph (1) by more than 10 percent of such limit and such candidate has made or obligated to make aggregate expenditures in excess of 133⅓%, 166⅔%, and 200 percent of such limit.

(2) The Commission shall, within 24 hours after making each such determination, make a determination as to whether the amount included in the report under paragraph (1) was made for purposes of influencing the election of the individual to the office of United States Senator.

(3) The certification required by section 505(a), the certification required by section 506(a), and the reporting requirements under this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such investigation as the Commission may deem necessary.

(4) Copies of Reports and Public Inspection.—The Secretary of the Senate shall, upon receipt of a report or filing, make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) Broadcasting Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by section 313, is amended by adding the following as a new subsection:

 ``(b) All schedules for the use of time for radio and television broadcasting in the United States, shall contain the following statement:

 **"Notwithstanding any other provision of law, the lowest charge of the station for the same period on the same date, inclusive of all time for the same period on the same date"**.

 SEC. 132. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d) and in section 313 amended by section 313, is amended by adding the following as a new subsection:

 ``(b) All schedules for the use of time for radio and television broadcasting in the United States, shall contain the following statement:

 **"Notwithstanding any other provision of law, the lowest charge of the station for the same period on the same date, inclusive of all time for the same period on the same date"**.

 SEC. 103. REPORTING REQUIREMENTS TITLES II OF FECA.—Amended by inserting after section 304 the following new section:

 "REPORTING REQUIREMENTS FOR SENATE CANDIDATES

 "Sec. 304A. (a) Candidate Other Than Eligible Senate Candidate.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 105 shall file a report with the Secretary of the Senate within 24 hours after such reports have been made or obligated to be made (or, if later, the date of publication) containing the information that would have been required to be included in such certification if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual.

 (2) If an opposing candidate has raised aggregate contributions, made or obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and such candidate has not made or obligated to make aggregate expenditures in excess of 133⅓%, 166⅔%, and 200 percent of such limit.

 (3) The Commission shall, within 24 hours after making each such determination, make a determination as to whether the amount included in the report under paragraph (1) was made for purposes of influencing the election of the individual to the office of United States Senator.

 (d) Certification.—Notwithstanding section 505(a), the certification required by paragraph (1) shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such investigation as the Commission may deem necessary.

 "(e) Copies of Reports and Public Inspection.—The Secretary of the Senate shall, upon receipt of a report or filing, make such report or filing available for public inspection and copying in the same manner and under the same conditions as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

 SEC. 134. BROADCASTING RATES AND PREEMPTION.

Section 316 of FECA (2 U.S.C. 441d), as amended by section 313, is amended by adding the following as a new subsection:

 ``(b) All schedules for the use of time for radio and television broadcasting in the United States, shall contain the following statement:

 **"Notwithstanding any other provision of law, the lowest charge of the station for the same period on the same date, inclusive of all time for the same period on the same date"**.

 Subtitle B—General Provisions

 SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) Broadcasting Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), is amended—

(1) in paragraph (1)—

(A) by striking "forty-five" and inserting "30";

(B) by striking "sixty" and inserting "45"; and

(C) by striking "lowest unit charge for the station for the same class and amount of time for the same period on the same date, inclusive of all time for the same period on the same date";

and

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

"(b) All schedules for the use of time for radio and television broadcasting in the United States, shall contain the following statement:

 **"Notwithstanding any other provision of law, the lowest charge of the station for the same period on the same date, inclusive of all time for the same period on the same date"**.

 "(c) Candidate for the office of United States Senator (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges during the general election period (as defined
in section 301(2) of such Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).".

(b) PREEMPTION; ACCESS. Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is redesignated subsections (c) (d) as subsections (e) and (f), respectively, and by inserting immediately after subsection (b) the following new subsection: "(c) In any advertisement for which a license has been granted under paragraph (1), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcast station by a legally qualified candidate or the office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

(2) If a program to be broadcast by a broadcast station is preempted because of circumstances beyond the control of the broadcast station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

(d) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 320(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

"(A) by striking "and the National" and inserting "to the National"; and

"(B) by striking "Committee" and inserting "Committee and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate";

(2) in paragraph (2)(B), by striking "and" after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting "; and"

(4) by adding after paragraph (2)(C) the following new subparagraph: "(D) The terms eligible Senate candidate' and 'principal campaign committe' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971.''

(5) by adding after paragraph (2) the following new paragraph: "(3) A rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—"

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and"

"(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) living in the congressional district or State, whichever is applicable.''

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesigned matter after subparagraph (C);

(2) by redesignating paragraph (5) as paragraph (8) and by inserting after paragraph (8), the following new paragraphs:

"(3) A any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made during the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $10,000 or more made at any time up to and including the 20th day before any election shall be filed within 24 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $10,000 or more are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the expenditure was made with or without the candidate's knowledge, the source of support, or, in opposition to the candidate involved.

"(D) The Secretary of the Senate shall as soon as possible (but not later than 4 workdays after receipt of a statement) transmit the report to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit the report to each candidate seeking nomination or election to that office.

(1) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

(2) If any person intends to make independent expenditures aggregating $10,000 or more made with respect to the same election as the initial statement filed under this section.

(3) Such statement shall be filed with the Secretary of the Senate and the Secretary of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the expenditure was made with or without the candidate's knowledge, the source of support, or, in opposition to the candidate involved.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—"

"(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and"

"(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of paragraph (1), the following statement—"

"in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds:

"is responsible for the content of this advertisement.

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of communication described in subsection (a)(2), shall appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

SEC. 135. DEFINITIONS.

Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such primary or runoff election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—"

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and"

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 902(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualified for the ballot for the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the
TITLE II—INDEPENDENT EXPENDITURES

SECTION 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURE

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431(13)) is amended by striking paragraphs (17) and (18) and inserting:

"(17)(A) The term 'independent expenditure' means an expenditure for advertising or other communication that—

"(i) is not made by a political committee of a political party; or

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, with the expenditure in support of or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time with respect to the candidate's pursuit of nomination for election, or election, to Federal office, including any advice relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(viii) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time during the same election cycle about the candidate's plans, projects, or election, or election, to Federal office, with—

"(I) any officer, director, employee, or agent of a political committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

(B) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaigns for a political candidate or political party.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(b)(A) of FECA (2 U.S.C. 431(b)(A)) is amended—

(1) in clause (ii), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not connect with an independent expenditure under paragraph (17)(A)(ii)."

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SECTION 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(1) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family, or an agent of the candidate's authorized committees, makes any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be made to repay such loans.

(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member except as part of a pro rata distribution of excess contributions to all contributors."

SECTION 302. EXTENSIONS OF CREDIT.

Section 301(b)(A) of FECA (2 U.S.C. 431(b)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii); and

(2) by striking the period at the end of clause (iii) and inserting "; or".

SECTION 311. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 135(a), is amended by adding at the end thereof the following new subsection:

"(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a
polity, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) Any committee to which paragraph (1) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(3) A committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as under subsection (b) (3)(A), (5), or (6).

"(4) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).

(b) REPORT OF EXEMPT CONTRIBUTIONS.ÐSection 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)) is amended by inserting at the end thereof the following: "(C) The exclusion provided in clause (iii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported."

"(c) REPORTS BY STATE COMMITTEES.ÐSection 304 of FECA (2.U.C. 434), as amended by section 301 of this Act, is further amended by adding at the end thereof the following new subsection: "(f) FILING OF STATE REPORTS.ÐIn lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission any report required to be filed by this Act by a Federal committee if the State committee or the political party acting on their behalf has on file with the Commission the last report required to be filed by the State committee or the political party, and the State committee or the political party acts in such capacity on behalf of the political party, or any political committee, has made any contribution to the Commission or to the party's principal campaign committee or authorized committee in excess of $200 during the preceding 12 months.

"(d) OTHER REPORTING REQUIREMENTS.ÐSection 304(b) of FECA (2 U.S.C. 434(b)) is amended by striking "within the calendar year", and by inserting "at the end of the year", and by striking "and" and by inserting "; and" at the end thereof.

"(e) DURATION OF EFFECTIVENESS.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(f) EFFECTIVE DATE.ÐThis Act shall take effect on the date of its enactment.

"(g) TRANSITIONAL PROVISIONS.ÐSections 305 and 306 of FECA (2 U.S.C. 435 and 436) are hereby repealed.

"(h) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(i) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(j) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(k) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(l) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(m) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(n) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(o) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(p) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(q) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(r) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(s) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(t) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(u) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(v) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(w) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(x) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(y) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.

"(z) Transition to the Federal Election Campaign Act of 1971.ÐThe provisions of this Act shall remain in effect for a period of 3 years from the date of the enactment of this Act, and thereafter shall be subject to revision by Congress.
Congress if the lobbyist makes a lobbying contact
or communication with

(i) the member of Congress;

(ii) any person employed in the office of the member of Congress; or

(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, representatives or, or represents, or acts as the agent of the member of Congress.

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 403(b), is amended by adding at the end the following new subsection:

(k) For purposes of this section, any contribution by an individual who

(I) is a dependent of another individual; and

(II) made is merely providing personal or communicating with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person to regard to—

(i) the formulation, modification, or adoption of Federal legislation (including a legislative proposal); or

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

(ii) does not include a communication that is—

(I) made by a public official acting in an official capacity;

(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information for a profit;

(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

(IV) in response to a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(VI) testimony given before a committee, joint committee, or leadership office

(1) in subparagraph (A) by striking ``and'' at the end of paragraphs (A) and (B), the treasurer may

(2) in subparagraph (B) by striking the period at the end of the subsection and inserting a comma after the word "treated".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

(A) The name of each authorized committee of a political party

(1) if such committee, or a committee of such committee, if such committee

(2) in subparagraph (B) by striking the period at the end of the subsection and inserting a comma after the word "treated".

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 303(b)(8) of FECA (2 U.S.C. 434(b)(8)) is amended by adding after the semicolon at the end of the section:

(9) A contribution for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee) with respect to an election, if such committee, or a committee of such committee, if such committee

(10) in subparagraph (A) by striking ``and'' at the end of paragraph

(11) maintain computerized indices of contributions of $50 or more.

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 434(e)(4)) is amended to read as follows:

(E)(A) The name of any authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

(E)(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate’s name has been authorized by the candidate.

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434a(2)) is amended—

(1) in subparagraph (A) by striking and inserting a comma after the word "Constitution;

(2) in subparagraph (B) by striking the period at the end of the section and inserting a comma after the word "Treasurer".

(TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after “calendar year” each place it appears the following: “(election cycle, in the case of an election of a candidate for Federal office)”. This section shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual’s spouse, the contribution shall be allocated among such individuals in the manner determined by them.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)) is amended by adding after the semicolon at the end of the section:

(1) in subparagraph (A) by striking and inserting a comma after the word "Constitution;

(2) in subparagraph (B) by striking the period at the end of the section and inserting a comma after the word "Treasurer".

(TITLE V—REPORTING REQUIREMENTS

SEC. 503. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after “calendar year” each place it appears the following: “(election cycle, in the case of an election of a candidate for Federal office)”. This section shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual’s spouse, the contribution shall be allocated among such individuals in the manner determined by them.

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) in subparagraph (A) by striking “and” at the end of paragraph (9);

(2) in subparagraph (B) by striking the period at the end of paragraph (10) and inserting “; and”;

(3) by adding at the end the following new paragraph:

(11) maintain computerized indices of contributions of $50 or more.

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES’ NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 434(e)(4)) is amended to read as follows:

(E)(A) The name of any authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

(E)(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate’s name has been authorized by the candidate.

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434a(2)) is amended—

(1) in subparagraph (A) by striking and inserting a comma after the word "Constitution;

(2) in subparagraph (B) by striking the period at the end of the section and inserting a comma after the word "Treasurer".

(TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after “calendar year” each place it appears the following: “(election cycle, in the case of an election of a candidate for Federal office)”. This section shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual’s spouse, the contribution shall be allocated among such individuals in the manner determined by them.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)) is amended by adding after the semicolon at the end of the section: 
with full powers of the general counsel until a successor is appointed.

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437f(f)(1)) is amended—

(1) by inserting “and the general counsel” after “staff director” in the second sentence; and

(2) by striking the second sentence.

SEC. 604. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking “it has reason to believe” and inserting “there is substantial likelihood that”.

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 306(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

“(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring, or is about to occur; or

(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

(iii) a civil penalty will not cause undue harm or prejudice to the interests of others; and

(iv) the public interest would be best served by an action to enjoin the commission, the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), or (4).”

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) by striking “which does not exceed the greater of $10,000 or an amount equal to all contributions and expenditures involved in the violation;” and

(B) by adding at the end the following new paragraph:

“(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.”

SEC. 605. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking “the greater of $5,000 or an amount equal to” and inserting “50 percent of”.

(b) AMENDMENTS OF PENALTIES.—Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking “which does not exceed the greater of $10,000 or an amount equal to 200 percent of” and inserting “which has the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.”

SEC. 606. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

“(g) The Commission shall promulgate rules to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.”

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by striking paragraph (3) to read as follows:

“(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

(A) a candidate for the office of President, if the catch-all political party may designate the national committee of such political party as the candidate’s principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by candidates as an authorized committee.”; and

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

“(g)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, an authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for Federal office may not establish or maintain a separate principal campaign committee for each Federal office.

(2) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986, making a contribution to the treasury of the United States, or by transferring the funds to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.”

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(b) of FECA (2 U.S.C. 431(b)), as amended by section 333(b), is amended by inserting at the end the following new subparagrap:

“(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was conducted, depreciated not more than 1 percent per day from such date to the date on which the contribution was made.”

SEC. 703. SENSE OF THE SENATE THAT CONGRESS SHOULD CONSIDER ADOPTION OF A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES.

It is the sense of the Senate that Congress should consider adoption of a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office or for State or local office.

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office or for State or local office.

SEC. 704. PERSONAL USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting “(a)” before “Amounts”;

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

“(f) For the purposes of this section, the term ‘personal use’ means the use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the fact that the candidate was a candidate for any campaign or duties as a holder of Federal office.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions
of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1996.

SEC. 802. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or group, has become invalid by reason of any provision of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 803. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDI TION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

By Mr. SARBANES:

Mr. SARBANES. Mr. President, as we begin the 104th Congress, I am reintroducing legislation to improve the pay system used for Federal firefighters.

This important bill has three broad purposes: First, to improve pay equality with municipal and other public sector firefighters; second, to enhance recruitment and retention of firefighters in order to maintain the highest level of fire service; and, third, to encourage Federal firefighters to pursue career advancement and training opportunities.

Fire protection is clearly a major concern at Federal facilities and on Federal lands throughout the Nation. From fighting wildland fires in our National parks and forests to protecting military families from fires in their base housing, Federal firefighters play a vital role in preserving life and property. One only needs to recall the terrible losses in Colorado last summer to understand the incredible commitment of our Federal firefighters.

The Department of Agriculture, the Coast Guard, the Department of Commerce, the Department of Defense, the General Services Administration, the Department of the Interior, and the Department of Veterans Affairs are among the Federal agencies that rely on Federal employees to protect their vast holdings of land and structures. Just like their municipal counterparts, these Federal firefighters are the first line of defense against threats to life and property.

Mr. President, the current system used to pay our Federal firefighters is simply unfair. These men and women work longer hours than other public sector firefighters yet are paid substantially less. The current pay system, which consists of three tiers, is overly complex and, unfortunately, does not provide sufficient Federal efforts to attract and retain top-quality employees.

Currently, most Federal firefighters work an average 72-hour week under exceptionally demanding conditions. The typical week consists of a one-day-on/one-day-off schedule which results in three 24-hour shifts per 72-hour week. Despite this unusual schedule, firefighters are paid under a modified version of the General Schedule pay system used for full-time, 40-hour-per-week Federal workers.

The result of the pay modification is that Federal firefighters make less per hour than any other Federal employees at the same grade level. For example: a firefighter who starts at Step 5 makes $7.21 per hour while other employees at the same grade and step earn $10.34 per hour. Some have tried to justify this by noting that part of a firefighter’s day is downtime. However, I must note that all firefighters have substantial duties beyond those at the site of a fire. Adding to this discrepancy is the fact that the average municipal firefighter makes $12.87 per hour.

Mr. President, this has caused the Federal fire service to become a training ground for young men and women who then leave for higher pay elsewhere in the public sector. Continually training new employees is, as my colleagues know, very expensive for any employer.

The Office of Personnel Management is well aware of these problems. In fact, section 102 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509), title V of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and section 316 of the Federal Law Enforcement Salaries and Expenses Act of 1991 (Public Law 102-153) authorize the establishment of special pay systems for certain Federal occupations. The origin of this provision was a recognition that the current pay classification system did not account for the unique and distinctive employment conditions of Federal protective occupations including the Federal fire service.

In May of 1991, I wrote to OPM urging the establishment of a separate pay scale for firefighters under the authority of FEPCA. Subsequently, OPM established an Advisory Committee on Law Enforcement and Protective Occupations consisting of agency personnel and representatives from Federal fire and law enforcement organizations. Beginning in August of 1991, representatives from the Federal fire community began working with OPM and other administration officials to identify and address the problems of paying Federal firefighters under the General Schedule. The committee completed its work in June of 1992 and in December of that year issued a staff report setting forth recommendations to correct the most serious problems with the current pay system.

Mr. President, I regret that since the release of the OPM recommendations, there has been no effort to implement any of the proposals of the advisory task force. In fact, OPM has communicated quite clearly that it has no plans to pursue any solution to the serious deficiencies that have so widely identified and acknowledged.

It would not be necessary to introduce this legislation today had OPM taken the corrective action that, in my view, is so clearly warranted. However, I have determined that legislation appears to be the only vehicle to achieve the necessary changes in the pay system for Federal firefighters.

Mr. President, the Firefighter Pay Fairness Act would improve Federal firefighter pay in several important and straightforward ways. Perhaps most importantly, the bill draws from existing provisions in title V to calculate a true hourly rate for firefighters. This would alleviate the current problem of firefighters being paid considerably less than other General Schedule employees at the GS 13 level. It would also account for the varying length in the tour of duty for Federal firefighters stationed at different locations.

In addition, the bill would use this hourly rate to ensure that firefighters receive true time and one-half overtime for hours worked over 106 in a biweekly pay period. This is designed to correct the problem, under the current system, where the overtime rate is calculated based on an hourly rate considerably less than base pay.

The Firefighter Pay Fairness Act would also extend these pay provisions to so-called wildland firefighters when they are engaged in firefighting duties. Currently, wildland firefighters are only compensated for all the time spent responding to a fire event. Our bill would ensure that these protectors of our parks and forests would be paid fairly for ensuring the safety of these invaluable national resources.

The bill also ensures that firefighters promoted to supervisory positions would be paid at a rate of pay at least equal to what they received before the promotion. This would address the situation, under the current pay system, which discourages employees from accepting pay deficiencies that have a significant loss of pay which often accompanies a move to a supervisory position.

Similarly, the bill would encourage employees to get the necessary training in areas such as emergency medicine, and other critical areas by ensuring they do not receive a pay cut while engaged in these training activities.

Mr. President, this legislation is based upon a bill I authored in the 103d Congress. A bipartisan group of more than 50 Members cosponsored the measure in the Senate and the House.
last year. The legislation I am introducing today reflects several modifications that were suggested to the bill following substantial discussions with various Members. However, it is identical to the so-called compromise measure that was discussed with the authorizing as well as the appropriating committees last summer and received widespread support.

To reduce initial costs and allow oversight of the effectiveness of the legislation, the bill I am introducing today would implement the new pay system beginning October 1, 1995. However, the new rate of pay would be phased in over a four year period ending October 1, 1999.

Mr. President, I consulted many of the affected groups in developing my legislation. I am very pleased that this bill has been endorsed by the American Federation of Government Employees, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Association of Government Employees, and the National Federation of Federal Employees.

As I have said before, Mr. President, fairness is the key word. There is no reason why Federal firefighters should be paid dramatically less than their municipal counterparts. As a co-chairman of the Congressional Fire Services Caucus, I want to urge all members of the caucus and, indeed, all Members of the Senate to join in cosponsoring this important piece of legislation.

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

S. 49. To amend the Federal Water Pollution Control Act to modify the wetlands regulatory program to correspond to the low wetlands loss rate in Alaska and the significant wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities and villages; to the Committee on Appropriations, the Committee on Agriculture, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works.

THE ALASKA WETLANDS REGULATORY REFORM ACT OF 1995

Mr. STEVENS. Mr. President, I send to the desk a bill to set a bold standard for the conservation of wetlands based upon the Alaska model. I am pleased that my colleague from Alaska, the chairman of the Energy Committee, has worked so closely with me on this bill. It is a combined effort and I thank him and his staff for their advice and assistance.

This bill, S. 49, comes after years and years of working for regulatory and administrative solutions to the wetlands permitting problems experienced too frequently by Alaskans. I worked with the Senate Agriculture, Nutrition and Forestry Committee when I was a member of that committee and I testified before the Senate Environment and Public Works Committee when it considered reform of the wetlands program. Senator MURKOWSKI and I, with our staffs, spent hours with the Environment Committee members on Alaskan wetlands reform during the 103rd Congress. We sought improvements that take into account the wetlands conditions in Alaska. However, the Clean Water Act was not reauthorized during the 103rd Congress. The current administration has failed to propose meaningful reforms after again studying the Alaska wetlands problem to death.

Today, Mr. President, we lay down our marker for Alaska wetlands regulatory program reform. We have exhausted other avenues. Our bill proposes the needed changes in the law and it is our reference point. Concepts in our bill will work because they change the regulatory program where they are inconsistent with Alaska’s wetlands circumstances. Alaskans who encounter the wetlands program have helped us draft these proposals.

Within Alaska are approximately 170 million acres of wetlands. We have many types of wetlands. Some, such as tundra, are found in no other State. During the past 200 years virtually none of these wetlands have been lost. Estimates of Alaska wetlands loss over the past 200 years range from 80,000 to 200,000 acres. So in 200 years, Alaska lost one-tenth of 1 percent of its wetlands. The total Alaska wetlands impacted in over 200 years are less than loss rates for the south 48 annually.

What’s more, Mr. President, Alaska has vast acreage of wetlands that are conserved in national and State parks, wilderness systems, and refuges. Even our local governments designate expansive wetlands areas for conservation. The whole coastline along the city of Anchorage composes the Anchorage Coastal Wildlife Refuge; it is a wetlands conservation area established by Alaskans for Alaska.

The point, Mr. President, is that within Alaska are vast wetlands. The bulk of the best wetlands are already conserved, most permanently protected.

In contrast, the south 48 has lost over one-half of its wetlands during the past 200 years. South 48 loss occurred for a variety of reasons. Land was drained for community growth and development. Much of the wetlands loss in the south 48 occurred well before the wetlands regulatory program began.

Then, in the mid-1980’s, came the idea of no net loss, a concept first proposed by President Bush. The President declared the goal of no net loss to reverse the trend of wetlands loss in the south 48. When he first mentioned the goal, President Bush referred to wetlands loss rates exceeding 50 percent, and that is currently off limits because a muscle-bound bureaucracy has refined the dispensing of red tape to an art form.

Anyone who looks at the facts, and who is not already biased against any and all development in Alaska, cannot help but be persuaded that the very
tough rules that apply to the development of wetlands in the lower 48 where 53 percent of the original wetlands have already been filed, drained or otherwise removed from wetland status do not make sense for Alaska where less than one tenth of 1 percent of original wetlands have been developed.

Good policy rewards good behavior and penalizes bad behavior. Alaska has diligently protected its wetlands. One hundred forty five million acres of wetlands, over 60 million acres are already out of reach of any sort of development. The remaining lands have been placed in Federal conservation units. By contrast in the lower 48 only 31 million acres are publicly owned. Alaska has developed at most only about 200,000 acres of wetlands less than one tenth of 1 percent, compared to 117,000,000 acres developed in the lower 48—53 percent. In other words, Alaska’s wetlands are already better protected than any other State. We will never, never become another New Jersey. It is simply good public policy to maintain our existing wetland development.

We need to do all we can to protect Alaska’s wetlands. It is simply good public policy to maintain our existing wetland development in Alaska to Alaska, not to some other State that has badly managed its wetlands. That is what our bill attempts to do.

Alaska is a young, strong State. The federal government has gone to great effort to provide for the orderly economic development of Alaska, first through the Statehood Act, in which 104 million acres were set aside for the State for purposes of economic development. Similarly, when the Congress passed the Alaska Natives Claim Settlement Act, approximately 43 million acres were granted to Native Alaskans through regional and village corporations for the purposes of economic development.

The irony is that, because so much of Alaska is wetland, 98 percent of all Alaskan communities and 200 out of 209 remote villages are located in or next to wetlands. So, while the Federal Government on one hand provided the resources and sensitivity for sensitive development by means of the Statehood Act and ANCSA, on the other hand the Federal bureaucrats have tied those same lands in a sticky ball of red tape that may make sense on the east coast, but make no sense in Alaska. Can you imagine requiring compensatory mitigation, that is, creating new wetlands to replace any wetland used in a state in which 3 out of 4 acres of non-mountainous land is already a wetland? Can you imagine requiring a wetlands permit to pile plowed snow on undeveloped land for the winter? Our bill is designed to address such absurdities.

This legislation does not do away with regulatory oversight of wetlands in Alaska. But, in Alaska, wetlands regulations are no longer completely ignored the economic and social effect of the permitting process. Compensatory mitigation would be done away with in many circumstances such as when critical infrastructure for minimal rural water and sewer delivery are instated. In addition, Alaska would get credit for the wetlands we already protect. Other protections, such as avoidance and minimization, would remain.

This will not satisfy those who are pleased with the status quo. They will not be comfortable with protecting Alaska for Alaskans. To them, preventing an Alaskan from building a garage, a house, or a designated wetland, even after avoidance and minimization requirements are met, is a small price to pay to preserve Alaska in its pristine primitiveness. In fact, in most cases it there is no price for them because many of them live in New York, Washington, DC or Los Angeles. For Alaskans, these regulations stop us dead in our tracks from pursuing the full promise of statehood.

This legislation just deals with Alaskans. It is our hope to work with other Senators and Members of Congress from other States in which the regulators are running amuck. It’s a starting point and a signal that we are serious about bringing sense back to a policy that seems to have been lobotomized. I look forward to beginning that process.

Mr. LOTT (for himself, Mr. KYL, Mr. MACAZ, Mr. SHELB, and Mr. WARNER).

S. 50. A bill to repeal the increase in tax on Social Security benefits; to the Committee on Finance.

Senior Citizens Tax Fairness Act

Mr. LOTT. Mr. President, I am here today to reintroduce the Senior Citizens Tax Fairness Act. I am introducing it today along with my distinguished colleague from the State of Arizona, Senator J ON KYL. Senator KYL led the effort against the tax increase that this legislation would repeal when he was in the House of Representatives last year. So I am delighted now to have the opportunity to work with him on this legislation and on other issues here in the Senate.

The Omnibus Budget Reconciliation Act of 1993 raised taxes on millions of Americans. For that reason, I opposed that legislation last year. In my opinion, the most unfair of all the new taxes included in OBRA 1993 was the increased tax on Social Security recipients. According to the Administration, the senior citizens, the group of Americans who have worked all their lives paying into the Social Security Trust Fund. They planned their retirements based on a certain level of income and return from their contributions, and then Congress, last year, in its infinite wisdom—I think mistakenly—changed the rules of the game on them. We broke our word to the elderly people of America. I think that was unconsociable, and it needs to be changed.

As a regular member of the Budget Committee, I fought this tax last year from its inception. I offered amendments to knock it out in the Committee. I offered amendments on the floor of the Senate that were defeated by close votes, and that tax went on to become law. So I now do not intend to give up that fight, and I want to work this year to make sure that this new tax is repealed.

The Senior Citizens Tax Fairness Act would do just that: It would completely repeal the tax increase imposed on the senior citizens of this country last year. Our bill would return the percentage of taxable benefits from the current 15 percent to the former 50 percent. For that reason, we have requested the bill number to be S. 50. This should make it easy for everyone to understand the purpose of the legislation.

This tax increase should be repealed for many reasons. First, it directly hits those prudent and frugal Americans who have worked, sacrificed, and invested in America. This tax penalizes people who have saved for their retirement. It also penalizes those who are still working. This tax increase, combined with the perverse interplay of taxes on working seniors, will create marginal tax rates of more than 100 percent for some beneficiaries. In addition to the taxes other Americans pay on their incomes, Social Security benefits under $12,100 are now subject to a Social Security tax for every $3 they earn. This will cause some working seniors in the 28 percent bracket $1.04 for every additional dollar they earn.

This is fundamentally unfair. This retirement earnings test reduction, combined with other state and federal taxes, and the increased tax on benefits, creates a powerful work disincentive for older Americans, many of whom would like to continue to work and are needed in many instances. Why should we punish those who work with a tax rate higher than that of millionaires? Is that the American dream? I do not think so.

As a study for the National Center for Policy Analysis points out, taxpayers are not taxed on income unless they put away additional savings for their retirement or are working. Penalizing savings—and working—is harmful to our economy as a whole. What is even worse about this is that the revenues from the tax increase will not go to reduce the deficit. They will not go into the Social Security Trust Fund. The revenues will do nothing to help assure the fiscal integrity of the Social Security System. No, this tax increase and the revenue it produces, will go to fund other new government spending. To my knowledge, I believe I am correct in saying, this is the first time this has happened. I think that is the fact that most alarmed the seniors when they realized what was happening.

The tax has repeatedly been referred to as a tax on the wealthy. But I remember when it was first proposed, it could apply to senior citizens with incomes as low as $19,000. Now the threshold has been raised somewhat, but surely, by most standards, somebody earning $34,000 is not wealthy.
The Clinton Social Security Tax Increase, senior citizens with incomes over $34,000 and couples with incomes over $44,000 are now taxed on 85% of their Social Security benefits. This represents a 70 percent increase in the marginal tax rate over prior law. For some seniors, this has meant an annual tax hike of $2,700. When the Social Security Tax Increase is combined with the "Social Security Earnings Limitation," a senior's marginal tax rate can reach 89%—twice the rate paid by a corporation. This is not taxation. This is confiscation.

The CBO estimates that, in 1994, 9.5 million beneficiaries were hit by the Clinton Social Security Tax Increase. This figure will rise to roughly 13.5 million by 1998 and will go higher each year thereafter because this tax is not indexed for inflation, thereby allowing "bracket creep."

To remedy the injustice imposed by the Clinton Social Security Tax Increase, Senator Trent Lott and I have introduced S. 50, the "Senior Citizens Tax Fairness Act of 1995." S. 50 would repeal the punitive rate of taxation imposed upon millions of middle class senior citizens by the Clinton Social Security Tax Increase. S. 50 is identical to H.R. 2959, which I introduced as a member of the House of Representatives on August 6, 1993, the day this tax increase was passed by the Congress.

According to a Heritage Foundation analysis of figures provided by the Congressional Budget Office (CBO) and the U.S. Treasury Department, the Clinton Social Security Tax Increase will remove $380,675,441 from the pockets of Arizona's senior citizens between 1994 and 1998. Throughout America, $24.6 billion will be confiscated from seniors during the same period.

The President and some members of Congress apparently forgot that Social Security is not an insurance policy intended to offset some unforeseen future occurrence. Rather it is a supplemental pension and the marginal incentive paid on a regular basis to retirees who made contributions to the fund on a regular basis throughout their working lives. Social Security is a planned savings program designed to provide income during an individual's retirement years.

Mr. President, since the imposition of the Clinton Social Security Tax Increase, I have heard from thousands of senior citizens. Their message is clear and personal. Social Security is a plan and part of their retirement savings. If the government is going to take money that seniors have set aside to provide for their retirement, it must be done in a fair and consistent way.

As Senator Lott has explained, passage of S. 50 would make it impossible for the President to cut Social Security spending programs. I do not believe it is fair to reduce the incomes of those who cannot change past work and savings decisions which were based on current law. Social Security represents a contract we made with the American people years ago. They have done their part by working hard and paying into the system all their lives. Congress must now uphold its end of the bargain, so I believe we need to repeal this inequitable tax this year. I will be looking for an opportunity to offer this bill on the floor, or to have it included in legislation that will be coming out of the Finance Committee, and perhaps even the Budget Committee. I believe that we are going to have a lot of support for it. I invite my colleagues to join Senator Kyl of Arizona and me as co-sponsors.

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Security is not the cause of the budget deficit, and because the revenues generated by the Clinton Social Security Tax Increase are not used to reduce that deficit. I believe justice requires that this tax be repealed.

I believe America's primary problem is not that our citizens are taxed too little but that government of the people, by the people, for the people is in grave danger of becoming the government of the politicians, by the politicians, for the politicians. With regrettable consistency, the Clinton Social Security Tax Increase of 1993 continued the failed policies of past Congresses that seemed actually addicted to raising taxes and adverse cutting spending. Passage of S. 50 will represent an important reversal of this "tax and spend" tendency.

The American people have given the 104th Congress an historic opportunity to reaffirm the fundamental principles of limited government, tax fairness, and self-reliance. The Congress must not continue to impose higher taxes on Social Security to provide for additional Federal spending. Further, the Government simply must stop borrowing from the Social Security Trust Fund, and must begin the process of insuring the solvency of the system for all current and future retirees. But we cannot and should not begin this process until there is a significant national consensus and until all retirees are adequately protected.

I hope you will join Senator Lott and me in supporting passage of S. 50, which will repeal the unjust Clinton Social Security Tax Increase. Thank you, Mr. President.

By Mr. THURMOND:
S. 51. A bill to amend title 29 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise to introduce legislation to prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates as a judicial remedy.

In 1990, the Supreme Court decided in Missouri "v. Jenkins" to allow Federal judges to order new taxes or ordering increases in existing tax rates as a judicial remedy. It is my firm belief that this narrow 5-4 decision permits Federal judges to exceed their proper boundaries of jurisdiction and authority under the Constitution. Mr. President, this ruling and Congress' failure to address institutional issues which warrant discussion. One is whether Federal courts have authority under the Constitution to inject themselves into the legislative taxation. The second constitutional issue arises in light of the judicial Taxation Prohibition Act which I am now introducing to restrict the remedial jurisdiction of the Federal courts. This narrowly drafted legislation would prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates. I believe it is clear under Article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal Courts in this fashion.

First, I want to speak on the issue of judicial taxation. Not since Great Britain's minister of George Grenville in 1765, have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision.

As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This act required excise duties to be paid by the colonists on the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, linens, and other items.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that "taxation without representation is tyranny."

In October, 1765, delegates from nine States were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act:

We have always understood it to be a grand and fundamental principle * * * that no freeman shall be subject to any tax to which he has not given his own consent, in person or by proxy.

A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated:

It is inseparably essential to the freedom of a people * * * that no taxes be imposed on the colonies by * * * any new law."

The resolutions concluded that the Stamp Act had a "manifest tendency to subvert the rights and liberties of the colonists." Opposition to the Stamp Act was vehemently continued through the colonies in pamphlet form. These pamphlets asserted that the basic premise of a free government included taxation of the people by themselves or through their representatives.

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Other Americans reacted to the Stamp Act by rioting, intimidating collectors, and boycotts directed against England. While Grenville's successor was determined to repeal the law, the social, economic and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution.

Yet, the Supreme Court has overlooked this fundamental lesson in American history. The Jenkins decision extends the power of the judiciary into an area which has traditionally been reserved as a legislative function within the Federal, State, and local governments. In the "Federalist No. 48," James Madison explained that in our democratic system, "the legislative branch alone has access to the pockets of the people."

This idea has remained steadfast in America for over 200 years. Elected officials with authority to tax are directly accountable to the people who give their consent to taxation through the ballot box. The shield of accountability against unwarranted taxes has been removed now: The Supreme Court has sanctioned judicially imposed taxes. The American citizen lacks adequate protection when they are subject to taxation by unelected, lifetime tenured Federal judges.

There are many programs and projects competing for a finite number of tax dollars. The public debate surrounding taxation is always intense. Sensitive discussions are held by elected officials and their constituents concerning increases and expenditures of tax dollars. Federal judges to impose taxes is to discount valuable public debate concerning priorities for expenditures of a limited public resource.

Mr. President, the dispositive issue presented by the Jenkins decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

This brings us to the second constitutional issue which we must address in light of the Jenkins decision. That issue is congressional authority under the Constitution to limit the remedial jurisdiction of lower Federal courts as established by Article III, section 1 of the Constitution which provides jurisdiction to the lower Federal courts as the "Congress may from time to time ordain and establish." There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under article III to "ordain and establish" the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lockerty v. Lauf, Burke Construction Co., v. Lockerty, Lauf and Sheldon v. Sill.

This legislation would preclude the lower Federal courts from issuing any order or decree requiring imposition of any new tax or tax rate. I firmly believe that this language is wholly consistent with congressional authority under article III, section 1 of the Constitution.

There is nothing in this legislation which would restrict the power of the Federal courts from hearing constitutional claims. It accords due respect to all provisions of the Constitution and
merely limits the availability of a particular judicial remedy which has traditionally been an important legislative function. The objective of this legislation is straightforward, to prohibit Federal courts from increasing taxes. The language in this bill applies to the lower Federal courts and does not deny claimants judicial access to seek redress of any Federal constitutional right.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of Government. The role of the judiciary is to interpret the law. The power to tax is an exclusive legislative right belonging to the Congress and governments at the State level. We are accountable to the citizens and must justify any new taxes. The American people deserve a timely response to the Jenkins decision and we must provide protection against the imposition of taxes by an independent judiciary.

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

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

S. 51

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 "Judicial Taxation Prohibition Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law, and that the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the increase of taxes by judicial order constitutes an authorized and inappropriate exercise of the judicial power under the Constitution of the United States and is incompatible with traditional principles of American law and government and the basic American principle that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative and democratic processes of Government when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) the Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts which it has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. AMENDMENT TO TITLE 28.

(a) In General.—Chapter 85 of title 28, United States Code, is amended by adding after sections 1341 and 1342, the following new section:

1341A. Prohibition of judicial imposition or increase of taxes

(1) Whenever the Congress finds and declares that—

(A) a person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

LEGISLATION BANNING CONTINGENCY FEES FOR LOBBYING ACTIVITIES

Mr. President, today, I am introducing a bill which would prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis. This bill is virtually identical to a bill I introduced in the 103rd Congress. It takes an important step towards ensuring integrity in the administration of the Federal Government.
Congress has a great responsibility to ensure integrity in the administration of the Federal Government and all its departments. This has become even more important now that we have entered the era of the $1 trillion Federal budget. Vast sums of money are appropriated by Congress for various projects and studies. Contracts worth millions of dollars are regularly entered into by Federal agencies. The competition for these funds and contracts is intense.

It is not realistic to assume that Congress can legislate integrity. However, when it acts through legislation, make efforts to remove certain incentives which use undue influence to enter into contracts which are contrary to the fiscal and ethical interests of our Nation. Accordingly, I introduce this legislation which will prohibit payment for lobbying on a contingency fee basis.

Mr. President, I have heard reports of certain lobbying activities which greatly disturb me. Specifically, I was informed that one lobbyist approached an institution and inquired as to how much money any amount of money was needed to fund a particular project. When the response was $12 million, the lobbyist responded that he would ask Congress for $14 million. If successful, he would be paid $2 million. If he was unsuccessful, only a base fee would be charged. When our Nation is briddled with such a huge debt, we certainly cannot afford to borrow more money to provide such suspect incentive payments which work to further increase the deficit.

Many lobbying firms do not operate on a contingency fee basis. Yet, other firms follow this practice. Hearings on these issues would be very helpful as this legislation moves through Congress. However, even if it is determined that such arrangements are rare—I take the view that even one is too much. Such arrangements are clearly wrong, and should not be tolerated.

I firmly believe that lobbying on a contingency fee basis is wrong and should not be allowed. Congress should follow the lead of most States by enacting this legislation which would prohibit such arrangements.

Mr. President, the question of the propriety of contingency fees in lobbying activities is not a new one. Common law established such contracts unenforceable for decades. In fact, in 1916, the Supreme Court ruled on the character of such financial arrangements in the case of Crocker versus United States. The Court, quoting from a prior case, stated:

*All contracts . . . should be made with those . . . who will execute them most faithfully, and at the least expense to the Government. [Contingency fees] introduce persons even- tual indemnification, and personal influence, as elements in the procurement of contracts; and thus directly lead to inefficiency in the public service, and to unnecessary expenditures of the public funds.*

Mr. President, recognizing the improper incentives contingency fees for lobbyists have injected into Government, 35 States have laws on the books which prohibit payment for lobbying on a contingent fee basis. My home State of South Carolina has prohibited this type of lobbying since 1935.

At the Federal level, contingency fee arrangements are addressed to some extent in the executive branch. Two laws covering contracts awarded by the Executive Departments—41 U.S.C. 264 and 10 U.S.C. 2306—restrict the use of “commission, percentage, brokerage or contingent fee” arrangements to secure these contracts. However, the scope of these statutes is deficient in two respects. First, the violation of these provisions carries only a little penalty. The Government can only annul the contract secured by a contingency fee arrangement, or deduct from the contract the full amount of the contingency fee. They carry no criminal penalties. Second, these statutes only apply to the executive branch and not to activities involving Congress.

Mr. President, the legislation I am introducing would make contingency fee arrangements to influence Government action a crime under Federal law. Any person who violates the provisions of this section shall be fined not up to $100,000, or imprisoned not more than 5 years, or both.

Moreover, the Attorney General is empowered to bring a civil action to recover twice the proceeds obtained by that person due to such conduct. This act is prospective in nature and would only apply to contracts entered into after enactment.

Lobbyists often provide expert and helpful information not otherwise available. I want to be clear on this point. This is an important role for lobbyists, but I am opposed to contractual arrangements which impugn the integrity and efficiency of our system. Clearly, a person should be entitled to reasonable fees for legitimate services. However, the presentation of the Government with information as may apprise them of the character and value of the project or service offered, and thus enable those officers to act for the best interest of the Nation. However, the law has long recognized that contingency fees are not appropriate in some areas while appropriate in others. For instance, contingency fees in tort actions provide the poor with access to the courts and are viewed favorably. In the area of criminal and domestic law, such fees are inappropriate because they introduce improper incentives into the system. Similar principles should apply to contingency fees for lobbying.

Mr. President, I urge my colleagues to support this legislation and I look forward to hearings on this important issue. The public deserves action on the part of Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, as follows:

There being no objection, the bill was ordered to be printed in the RECORD. S. 53

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**§ 220. Contingency fees in lobbying.**

(a) It shall be unlawful for any person to make, with intent to influence, any oral or written communication of any other person other than the United States to any department, agency, court, House of Congress, or commission of the United States for compensation if such compensation has knowingly been made dependent—

(A) upon any action of Congress, including but not limited to actions of either the House of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any proposed legislation;

(B) upon the securing of an award, or upon the denial of an award, of a contract or grant by establishment of the Federal Government; or

(C) upon the securing, or upon the denial, of Federal financial assistance or any other Federal contract or grant.

(2) The provisions of paragraph (1) shall not apply in any case involving the collection of a debt or contract claim owed to a person by the Federal Government.

(b) Any person who violates the provisions of this section shall be fined not more than $50,000 or imprisoned not more than two years, or both.

(c) The Attorney General may bring a civil action in any United States district court, on behalf of the United States, against any person who engages in conduct prohibited by this section in lieu of or in addition to any action taken pursuant to subsection (b), and upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date on which the prohibited conduct had occurred; and

(i) amending the table of sections by striking out the item between the item relating to section 219 and the item relating to section 222 and inserting in lieu thereof the following:

````220. Contingency fees in lobbying.````

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract entered into on or after such date of enactment.

By Mr. THURMOND:

S. 54. A bill to amend title 18 to limit the application of the exclusionary rule to the Committee on the Judiciary.

EXCLUSIONARY RULE LIMITATION ACT

Mr. THURMOND. Mr. President, today I rise to introduce a bill which would codify the good faith exception to the exclusionary rule that has been recognized by the Supreme Court.

The legislation that I am offering today is similar to measures I have introduced in the last five Congresses and to a proposal which I offered to the Senate by the vote of 63-24 in 1984. Although the House of Representatives passed similar legislation during the
In an effort to work towards a bi-partisan comprehensive crime bill last year, I recognized the need for a judicially tailored exclusionary rule.

The exclusionary rule is a judicially tailored remedy for violations by law enforcement officers of the fourth amendment prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment then that evidence will be excluded in a criminal trial. The exclusionary rule is an important principle because it helps to ensure that law enforcement officers not be allowed to randomly search our homes or private places and search without just cause.

However, since the creation of the exclusionary rule in 1914, in Weeks versus California, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure addresses one of those exceptions. This legislation codifies the Court’s holding in United States versus Leon to provide that evidence obtained pursuant to a warrant which is later found to be invalid will not be excluded if the law enforcement officer acted in objective good faith. Objective good faith would be established if the circumstances surrounding the search justify an objectively reasonable belief that it was in conformity with the fourth amendment. This bill also extends this exception to warrantless searches which has been recognized in two Federal circuits.

Mr. President, the bill that I am introducing today neither authorizes nor encourages law enforcement officers to disregard the fourth amendment and randomly search a person’s home. What it does address is the legal loophole that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed. The goal of the exclusionary rule is to deter law enforcement conduct that violates the fourth amendment. Therefore, if a law enforcement officer’s conduct in executing a search is in conformity with the fourth amendment, applying the exclusionary rule does not serve as a deterrent. It should be noted that the determination as to whether the officer conducted the search in objective good faith would be made by a court based on the circumstances surrounding the search. Of course, if the officer’s conduct did not exhibit objective good faith, the evidence would not be allowed.

By Mr. INOUYE:

S. 54
That this Act may be cited as the “Exclusionary Rule Limitation Act of 1995”.

SEC. 2. (a) Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

§ 3508. Limitation of the fourth amendment exclusionary rule

“Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the evidence is obtained pursuant to a warrant which is, within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless that warrant was obtained through intentional and material mis-representation.”

§ 3509. General limitation of the exclusionary rule

“(a) Except as specifically provided by statute or rule of procedure evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule of procedure, or of a regulation issued pursuant thereto.

(b) The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

§ 3508. Limitation of the fourth amendment exclusionary rule.

§ 3509. General limitation of the exclusionary rule.”

By Mr. INOUYE:

S. 55. A bill to amend title 38, United States Code, to deter certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

This Act may be cited as the "Filipino Veterans’ Equity Act of 1995".
Although the Philippines and Japan were not considered a war zone from 1950 to 1962, the extent and nature of United States military involvement in both countries were quite similar to the involvement of the United States military in other Asian counties during the Korean and Vietnam wars. As a result, interracial marriages in both countries were common, thereby leading to a significant number of Amerasian children fathered by U.S. citizens. There are now over 50,000 Amerasian children in the Philippines and 6,000 Amerasian children in Japan born between 1967 and 1992.

These children face similar problems to the Amerasian children provided for under Public Law 97-359. Due to the illegitimate or mixed ethnic makeup, they are often ostracized within their home countries. This stigmatization, in turn, leaves many without viable opportunities of employment, education, or family life. As a result, Amerasian children are subjected to conditions of severe poverty and prejudice, with very little hope of flight.

Public Law 97-359 was passed in hopes of redressing the situation of Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam. Now is the time for the Senate to recognize our responsibilities to Amerasian children in the Philippines and Japan, and pass legislation that would lessen the severity of their impoverished lives.

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

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

S. 57. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

AMERASIAN IMMIGRATION ACT AMENDMENTS

Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends Public Law 97-359, the Amerasian Immigration Act, to include Amerasian children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines until the completion of the last United States military base closure and until the date of enactment of the proposed legislation for Japan.

Under the current Amerasian immigration law, only children born in Korea, Laos, Kampuchea, Thailand, and Vietnam, excluding December 31, 1950, and before October 22, 1962, who were fathered by United States citizens, are allowed to immigrate to the United States. When this legislation was first introduced in the 97th Congress, it included Amerasian children born in the Philippines and Japan with no time limits concerning their births. The final version of this bill, however, included only areas where the United States had engaged in active military combat from the Korean War onward, and hence, excluded both the Philippines and Japan.

The present needs are still pertinent. I ask unanimous consent that the text of the article be printed in the RECORD.

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

S. 58

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

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 903(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(2)), is amended to read as follows:

"(2)(A) The Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary.

(B) The Secretary of Transportation shall:

(i) review the administration of the programs referred to in subparagraph (A); and

(ii) on an annual basis, submit a report to Congress concerning the administration of such programs."
industry, the revenue amounted to about $502 million.

Necessity for Preference: Preference statutes are formally predicated on the need for assured cargoes to encourage the existence of a U.S. merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial trade failed, reflecting U.S. governmental sensitivity to objections by this country’s trading partners as well as stern opposition from U.S. exporters, importers, and agricultural interests. The availability of preference cargoes has unquestionably kept some U.S. carriers in business but critics argue that preference has encouraged keeping vessels in operation long after they should have been scrapped.

Extent of Program: The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 91 percent rate of U.S.-flag vessel use; it brought participating carriers some $14.5 million in revenue.

Problems: The Maritime Administration is responsible for many of the preference programs and for such maintenance and repair requirements as are necessary to keep vessels in operation. In 1989, the MMTA reported that the separate preference programs were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite Reagan administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of giveaway relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargo-sharing agreement with Iceland for military shipments there. Iceland threatened to court U.S. bases in that country if the United States didn’t agree to a departure from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their supporters in Congress generally have forestalled them.

Comment: Budgetary austerity and the Defense Department’s strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy’s Military Sealift Command.

Efforts already are under way to change the procurement system as the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuccessfully to have existing preference removed from cereal grain programs in the belief that they inhibit U.S. farm exports.

By Mr. INOUYE:

S. 59. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on

HEALTH CARE TRAINING ACT

Mr. INOUYE, Mr. President, I introduce the Rural Preventive Health Care Training Act of 1995, a bill that responds to the need for rural communities face in obtaining quality health care and disease prevention programs.

Recently, the Institute of Medicine (IOM) released a report from their 2nd Panel on "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research." This study, mandated by the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, of which I am a member and the distinguished Senator from Pennsylvania is Chair, highlights the benefits of preventive care for all health problems.

Almost one fourth of Americans live in rural areas and thus frequently lack access to adequate physical and mental health care. For example, approximately 1,700 rural communities in virtually every State of the union suffer critical shortages of health care providers. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography and distance, lack of transportation, and lack of knowledge about available resources. Additionally, due to the diversity of rural populations, ranging from native Americans to migrant farm workers, there are numerous limits and challenges to providing services.

Almost one fourth of Americans live in rural areas and thus frequently lack access to adequate physical and mental health care. For example, approximately 1,700 rural communities in virtually every State of the union suffer critical shortages of health care providers. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography and distance, lack of transportation, and lack of knowledge about available resources. Additionally, due to the diversity of rural populations, ranging from native Americans to migrant farm workers, there are numerous limits and cultural obstacles are often a factor.

Compound these problems with slim financial resources and many of America’s rural communities go without vital health care, especially preventive care. Compounding immunities and routine checkups. Preventable illnesses and injuries occur needlessly and lead to excessive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected and often develop into full blown disorders.

Rural health care providers face a lack of training opportunities. Training in prevention is crucial in order to meet the demand for care in underserved areas. The Institute of Medicine Committee recommended that Congress and Federal agencies should immediately take steps to develop and support the training of additional researchers who can develop new preventive intervention research trials as well as evaluate the effectiveness of current service projects.

Beyond the scope of simple prevention training, interdisciplinary preventive training in rural health is important because of a growing array of evidence that mental disorders to physical ailments. For example, it has been estimated that from 50 to 70 percent of visits to physicians for medical symptoms are due in part or whole to psychosocial problems. By encouraging interdisciplinary training, rural communities can integrate the behavioral, biological, and psychological sciences to form the most effective preventive care possible.

The problems with quality, access, and understating of health care in rural areas all suggest that promoting interdisciplinary training of psychologists, nurses, and social workers is essential. The need becomes clearer when considering that many of the behavior-related problems affecting rural communities are amenable to proven risk reduction strategies that are best provided by trained mental health care professionals.

Interdisciplinary team prevention training will facilitate both health and mental health clinicians sharing single service sites and routine consultation between groups. Social workers, psychologists, clinical psychiatric nurse specialists, and paraprofessionals play an important role in extending rural mental health services to those in need. Linkage of these services can provide better utilization of existing mental health care personnel, increase awareness and understanding of mental health services, and contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1995, targeted specifically toward rural communities, would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors for a certain disorder and the implementation of specific preventive strategies to target groups with those risk factors. The IOM Committee aptly demonstrates that methods of risk reduction have proven highly successful in many health-related areas, such as cardiovascular disease, smoking reduction, and the numerous childhood diseases. Considering that many of the behavioral and cultural obstacles are often a factor.

The cost of human suffering caused by poor health is immeasurable, but the huge financial burden placed on communities, families, and individuals is evident. By implementing preventive measures, the potential for savings in psychological and financial realms is enormous. This savings is the goal of the Rural Preventive Health Care Training Act of 1995.

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

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

S. 59

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 "Rural Preventive Health Care Training Act of 1995."
SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Subpart II of part D of title VII of the Public Health Service Act (42 U.S.C. 294d et seq.) is amended—
(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; 
(2) following new section after subsection (d), the following new subsection: 

``(e) PREVENTIVE HEALTH CARE TRAINING.—

``(1) IN GENERAL.—The Secretary may make grants to contracts under this section to an eligible applicant to enable such applicant to provide preventive health care training to health care practitioners practicing in rural communities, or that expand post-baccalaureate or post-professional programs for the advanced training of physical or occupational therapy practitioners, in approved programs that provide financial assistance to physical or occupational therapy practitioners, for the purpose of developing a pool of qualified faculty and implementing projects for the recruitment, retention, and training of physical and occupational therapy practitioners in approved programs that provide financial assistance in the form of traineeships to students who participate in such projects.

``(2) PREFERENCE IN MAKING GRANTS.—In making grants subsection (a), the Secretary shall give preference to qualified applicants that provide training in either physical or occupational therapy programs in rural or urban medically underserved communities, or that expand post-baccalaureate programs for the advanced training of physical or occupational therapy practitioners.

(by date certain for submission.)—Not later than February 1, 1999, the Secretary shall complete the report required in paragraph (1) and submit the report to the Committee on Finance, the Committee of Appropriations of the House of Representatives, the Committee of Appropriations of the Senate, and the Committee of Appropriations of the Committee on Labor and Human Resources of the Senate.

``(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for each of the fiscal years 1996 through 1998.

SEC. 768. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

``(a) IN GENERAL.—The Secretary may make grants or contracts under this section to other institutions which service predominantly rural communities for the purpose of facilitating the provision of preventive health care training to health care practitioners practicing in rural communities, or that expand post-baccalaureate or post-professional programs for the advanced training of physical or occupational therapy practitioners, in approved programs that provide financial assistance in the form of traineeships to students who participate in such projects.

``(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that provide training in either physical or occupational therapy programs in rural or urban medically underserved communities, or that expand post-baccalaureate programs for the advanced training of physical or occupational therapy practitioners.

(by date certain for submission.)—Not later than February 1, 1999, the Secretary shall complete the report required in paragraph (1) and submit the report to the Committee on Finance, the Committee of Appropriations of the House of Representatives, the Committee of Appropriations of the Senate, and the Committee of Appropriations of the Committee on Labor and Human Resources of the Senate.

``(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for each of the fiscal years 1996 through 1998.

SEC. 1. SHORT TITLE.

This Act may be cited as the “Physical and Occupational Therapy Education Assistance Act of 1995.”

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 “Physical and Occupational Therapy Education Assistance Act of 1995.”

By Mr. INOUYE:

S. 60. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Labor and Human Resources.

PHYSICAL AND OCCUPATIONAL THERAPY
EDUCATION ASSISTANCE ACT

By Mr. INOUYE, Mr. President, today I am introducing the “Physical and Occupational Therapy Education Assistance Act of 1995.” This legislation will assist in educating greater numbers of physical and occupational therapy practitioners to meet the current and future demand for the valuable services they provide to our communities.

In its most recent report, the Department of Labor’s Bureau of Labor Statistics projected that the demand for services provided by physical and occupational therapy practitioners will increase dramatically over the next decade. For the Bureau, between 1992 and 2005 the increase in demand will create a need for 79,400 additional physical therapists, an 88% increase over 1992 figures. Demand for physical therapist assistants is expected to grow at an even greater rate, experiencing a 93% increase over the same period.

High demand is also expected for occupational therapists and occupational therapist assistants at 60% and 78%, respectively, by the year 2005. Current shortages are exacerbating the problem and creating quick response. In a survey released in May 1994 regarding hospital employment (1992 Survey of Human Resources), the American Hospital Association confirmed that physical therapy and occupational therapy maintain the highest average vacancy rates at 16.3% and 14%, respectively, of 26 health occupations. The legislation introduces today would provide necessary assistance to physical therapy and occupational therapy programs throughout the country to address this current problem and assist in providing an adequate work force for the future.

In awarding grants, preference will be given to those applicants that train practitioners in either rural or urban medically underserved communities.

In addition, a shortage of physical and occupational therapy faculty threatens the ability of education programs to train an adequate supply of practitioners. The critical shortage of doctorally prepared physical and occupational therapists has resulted in an almost nonexistent pool of potential faculty. For the 1993 academic year, 65 faculty shortages were reported from the 131 accredited professional-level physical therapy programs in the United States. Similarly, 50 faculty shortages were reported from the 65 accredited, professional-level occupational therapy programs. The legislation introduces today would assist in the development of a pool of qualified faculty by giving preference to those grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

Passage of the “Physical and Occupational Therapy Education Assistance Act of 1995,” as part of this year’s reauthorization of Title VII of the Public Health Service Act, is essential to ensure adequate numbers of providers to meet the health needs of our nation. I look forward to working with my colleagues in the Congress and the Administration to enact this legislation.

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

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

S. 60

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

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1995, a bill that has two main purposes. First, it builds on our concerted efforts to provide access to quality health care for all Americans by furnishing grants and incentives for nursing schools to establish primary care clinics in areas where additional medical services are most needed. Second, it provides the opportunity for nursing schools to enhance the scope of their students’ clinical experience in primary care facilities.
Any good manager knows that when major problems are at hand and resources are tight, the most important need is to do more. We must make full use of all health care practitioners, especially those who have been long waiting to give the nation the full measure of their professional abilities.

Nursing is one of the noblest professions, with an enduring history of offering effective and sensitive care to those in need. Yet it is only in the last few years that we have begun to recognize the role that nurses can play as independent providers of care. Only recently, in 1990, Medicare was changed to authorize direct reimbursements to nurse practitioners. Medicaid is gradually being reformed to incorporate their services more effectively. The Nursing School Clinics Act continues the progress toward fully incorporating nurses in the delivery of health care services. Under the act, nursing schools will be able to establish clinics, supervised and staffed by nurse practitioners and nurse clinical specialists, that provide primary care targeted to medically underserved rural and Native American populations.

In the process of giving direct ambulatory care to their patients, these clinics will also furnish the forums in which both public and private schools of nursing can design and implement clinical training programs for their students. Simultaneous school-based education and clinical training have been traditionally part of physician development, but nurses have enjoyed fewer opportunities to combine classroom instruction with the practical experience of treating patients. This bill reinforces the principle for nurses of joining schooling with the actual practice of health care.

To accomplish these objectives, title XIX of the Social Security Act is amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to start the clinics and to keep them going.

To meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we are going to have to think about and debate a variety of proposals, both large and small. Most important, however, we must face up to the issue of socialized health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act makes it clear the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 61

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

SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) In General.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395cc(2)(E)) is amended by inserting before the semicolon "(except with respect to services provided by a clinical psychologist or clinical social worker)".

(b) Effective Date.—The amendments made by subsection (a) shall become effective with respect to payments under title XIX of the Social Security Act for the first calendar quarter beginning after January 1, 1996.

By Mr. INOUYE:

S. 62. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social workers serving under the Medicare program, and for other purposes; to the Committee on Finance.

The Clinical Social Worker Services Act of 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to amend title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered under Medicare, Part B. The three proposed changes that are contained in this legislation are necessary to clarify the current payment process for clinical social workers and to establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program. First, this legislation would set payment rates for clinical social workers' services according to a fee schedule established by the Secretary. Currently, the methodology for reimbursing clinical social
By Mr. INOUYE:  

S. 64. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various professions loan programs, and for other purposes; to the Committee on Labor and Human Resources.

THE U.S. PUBLIC HEALTH SERVICE ACT

AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to modify title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health efforts. There is a growing recognition of the valuable contribution that is being made by our nation’s psychologists toward solving some of our nation’s most challenging social problems, such as domestic violence, addictions, occupational stress, child abuse, and depression.

The participation of students of all kinds is vital to the success of health care training. The title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists, for example, have an advantage in the provision of critical services to minority populations because they are more likely to understand or, perhaps, share the cultural background of their clients and are often able to communicate to them in their own language. Also significant is the fact that, when compared to minority graduates, ethnic minority graduates are less likely to work in private practice and more likely to work in community or non-profit settings, where ethnic minority and economically disadvantaged individuals are more likely to seek care.

It is important that a continued emphasis be placed on the needy populations of our nation and that continued support be provided for the training of individuals who are most likely to provide services in underserved areas.

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

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

S. 63

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

SECTION 1. ADDED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 13955(a)(1)(F)(i) of the Social Security Act (42 U.S.C. 13955(a)(1)(F)(i)) is amended to read as follows: "(i) the amount determined by a fee schedule established by the Secretary.",

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 13955(a)(1)(F)(ii) of such Act (42 U.S.C. 13955(a)(1)(F)(ii)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services furnished on or after January 1, 1996.

By Mr. INOUYE:  

S. 65. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in serving the nation’s medically underserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, children’s behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved populations, or with specific underserved populations have been demonstrated to be successful in providing services to those same underserved populations during the years following the training experience. That is, mental health professionals who have participated in these specialized training programs have not only met their payback obligations, but have continued to work in the public sector or with the underserved populations with whom they have been trained to work.

While the doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowship programs provide particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what
looks like severe depression in an elderly person might be a withdrawal reaction, and what looks like poor academic motivation in a child recently relocated from Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires very different interventions, diagnosis, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system; it is a significant public health problem. A single aspect of the issue, domestic violence related to violence in pregnancy, is estimated to result in almost 100,000 days of hospitalization, 30,000 emergency room visits, and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of rural populations could be of special benefit in addressing these problems.

Given the changing demographics of the nation—the increasing life span and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition of the long-term sequelae of violence and abuse—and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowship programs that respond to the needs of the nation’s underserved.

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

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

S. 66

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

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of the Public Health Service Act is amended by inserting after section 778 (42 U.S.C. 294p) the following new section:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) In General.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved areas.

"(b) Eligible Entities.—

"(1) Individuals.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time of the application;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) Institutions.—In order to receive a grant or contract under this section, an institution shall submit to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations, entities that care for the mentally retarded, mental health institutions, and prisons;

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(c) Continued Provision of Services.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) Regulations.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations necessary to carry out this section, including regulations that define the terms ‘medically underserved areas’ or medically underserved populations’.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1996 through 1998.”.

By Mr. INOUYE:

S. 66 A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the Minority Opportunity and Excellence Program, the Minority Centers of Excellence Program, and programs of grants for training programs in geriatrics, to establish a social work training program, and for other purposes; to the Committee on Labor and Human Resources.

SUPPORT FOR SOCIAL WORK SCHOOLS AND STUDENTS

Mr. INOUYE. Mr. President, on behalf of our Nation’s clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation will first, establish a new social work training program; second, ensure that social work students are eligible for support under the Health Careers Opportunity Programs; third, permit schools offering degrees in social work with concentrations in clinical social work, or programs in social work, to establish fellowships to provide assistance to schools of social work and social work professionals. In addition, since social workers have had quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations, I believe that it is time to provide them with the proper recognition of their profession that they have clearly earned and deserve.

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

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

S. 66

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

SECTION 1. SOCIAL WORK STUDENTS.

(a) Scholarships, Generally.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) is amended by striking ‘‘offering graduate programs in clinical psychology’’ and inserting ‘‘offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work’’;

(b) Faculty Positions.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) is amended by striking ‘‘offering graduate programs in clinical psychology’’ and inserting ‘‘offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work’’.

Despite the impressive range of services social workers provide to the people of this Nation, particularly our elderly, disadvantaged, and minority populations, few Federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professions education legislation enacted by Congress enabling schools of social work to apply for AIDS funding and resources to establish collaborative relationships with rural health care providers and schools of medicine or osteopathic medicine. My bill provides funding for fellowships for individuals who plan to specialize in practice, or teach social work, or for operating approved social work training programs; it assists disadvantaged students to earn graduate degrees in social work with concentrations in health or mental health; it provides new resources and opportunities in social work training for minorities; and it encourages schools of social work to expand programs in geriatrics. Finally, this legislation not only recognizes the special expertise and skills social workers possess continue to be available to the citizens of this nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the strong history and critical importance of the services provided by social work professionals. In addition, since social workers have had quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations, I believe that it is time to provide them with the proper recognition of their profession that they have clearly earned and deserve.
SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 771(b)(1) of the Public Health Service Act (42 U.S.C. 294o(b)(1)) is amended by inserting "schools offering degrees in social work" after "schools offering programs in social work," and after "schools offering programs in social work." 

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Part E of title VII of the Public Health Service Act (42 U.S.C. 296b et seq.) is amended by adding at the end thereof the following new section:

"SEC. 779. SOCIAL WORK TRAINING PROGRAM."

"(a) Training Generally.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school, or program of social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract) to:

"(1) plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(2) provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts with, any hospital, school, or program of social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract) to:

"(A) establish an academic administrative unit for programs in social work; or

"(B) substantially expand the programs of such a unit.

(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The Secretary may make payments from an award of a grant or contract under subsection (a) only if the Secretary, after taking into account the need of such entity for the funds, determines that the entity is capable of carrying out the duties and responsibilities of such entity.

(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000 through the appropriated funds of the fiscal year involved, subject to the availability of appropriations.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent of such grants and contracts under subsection (b)."

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 296o-2) is amended—

"(1) in paragraphs (1) and (2), by striking "clinically oriented psychologists and social workers," each place it appears;

"(2) in paragraph (4)(A), by striking "(and psychologists)" and inserting "(psychologists, and clinical social workers); and

"(3) in paragraph (5), by striking "clinical social worker," after "psychologist," and inserting "clinical social worker," after "psychologist.""

By Mr. INOUYE:

S. 67. A bill to amend title 10, United States Code, to authorize certain members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

THE PATRIOTIC AMERICANS ACT OF 1995

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on space-available basis on non-scheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent, service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our country, a debt of gratitude. Of course, we cannot repay them for the sacrifice they have made on behalf of all of us, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans.

I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

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

The Senate then adjourned sine die.

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

S. 68

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

SECTION 1. SURGEON GENERAL OF THE ARMY.

Section 3036 of title 10, United States Code, is amended—

"(1) in subsection (b), by inserting before the period at the end of the third sentence the following, "and shall be appointed as prescribed in subsection (f)"; and

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

"(f) The President shall appoint the Surgeon General from among commissioned officers in the Army Medical Department who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists;"

SEC. 2. SURGEON GENERAL OF THE NAVY.

Section 5137 of title 10, United States Code, is amended—

"(1) in the first sentence of subsection (a), by striking out "in the Medical Corps" and inserting in lieu thereof "who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists."
(2) in subsection (b), by striking out “in the Medical Corps” and inserting in lieu thereof “who is qualified to be the Chief of the Bureau of Medicine and Surgery”.

SEC. 3. PROVISION OF THE AIR FORCE.

The first sentence of section 8036 of title 10, United States Code, is amended by striking out “designated as medical officers under section 8067(a) of this title” and inserting in lieu thereof “educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists”.

By Mr. INOUYE:

S. 69. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare, and for other purposes; to the Committee on Armed Services.

THE CHAMPUS AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I feel that it is very important that our Nation continue its firm commitment to those individuals and their families who have served in the Armed Forces and made us the great Nation that we are today. These individuals made a commitment to their country that when they needed help, the Nation would honor that commitment. The bill that I am recommending today would ensure the highest possible quality of care for these dedicated citizens and their families, who gave so much for us.

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

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

S. 69

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

SECTION 1. EXPANSION OF MEDICARE EXCEPTIONS.-Subsection (d) of section 1086 of title 10, United States Code, is amended to read as follows:

“(d) (1) Subsection (a) of this title shall apply to a plan contracted for under this section except as follows:

(A) Subject to paragraph (2), a benefit may be paid under such plan in the case of a person referred to in subsection (c) for items and services for which payment is made under section 1862(b) of the Social Security Act.

(B) No person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service that disability is which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

(2) If a person described in paragraph (1)(A) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a) of this section, the amount payable for care under the plan may not exceed the difference between—

(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan.

(3) A plan contracted for under this section shall not provide a group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act (42 U.S.C. 1395(b)).

(4) A person who, by reason of the application of paragraph (1), receives a benefit for items or services under a plan contracted for under this section shall provide the Secretary of Defense with any information relating to amounts charged and paid for the items and services that, after consulting with the other administering Secretaries, the Secretary requires. A certification of such person regarding such amounts may be accepted for the purposes of determining the benefit payable under this section.

(b) REPEAL OF SUPERSEDED PROVISION.—Such section is amended—

(1) by striking out subsection (g); and

(2) redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713d of title 38, United States Code, is amended by striking out “section 1096(d)(1) of title 10” and inserting “section 1086(d)(1) of title 10”.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.

By Mr. DOLE (for Mr. MURkowski (for himself, Mr. Breaux, Mr. Stevens, and Mr. Heflin)):

S. 70. A bill to permit exports of certain domestically produced crude oil, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ALASKA OIL LEGISLATION

Mr. MURkowski. Mr. President, I rise to introduce legislation (S. 70) on behalf of myself and Senators Stevens and Breaux and Heflin that is critical to the economy of Alaska and the energy security of the United States. This legislation would lift the 22-year old prohibition on the export of Alaskan North Slope (ANS) crude oil, thereby allowing the state's most important and vital industry to sell its products in international markets.

Mr. President, the export ban is contrary to the free trade, non-discrimination, and open market principles that have guided this Administration in the successful NAFTA and GATT negotiations. It represents the worst type of protectionist action which is a hallmark of oil producing states. ANS crude oil is the cleanest and most marketable oil in the world. It sells at a premium price in world markets. If we decide to sell ANS crude oil, we will increase our revenues, reduce our dependence on foreign oil, and provide a greater diversification of our industry.

The Alaska parties estimate that the lifting of the ANS export ban would result in an additional annual revenue of $1 billion to $1.4 billion, and would increase the ANS production rate by 50,000 to 100,000 barrels daily.

Mr. President, the export ban on ANS crude oil is one of the most egregious examples of protectionism. By maintaining this ban, American consumers are guaranteed higher fuel prices and a continued glut on the market. By providing the opportunity to sell ANS crude oil, we will increase our revenues, reduce our dependence on foreign oil, and provide a greater diversification of our industry.

Mr. President, the export ban is contrary to the free trade, non-discrimination, and open market principles that have guided this Administration in the successful NAFTA and GATT negotiations. It represents the worst type of protectionist action which is a hallmark of oil producing states. ANS crude oil is the cleanest and most marketable oil in the world. It sells at a premium price in world markets. If we decide to sell ANS crude oil, we will increase our revenues, reduce our dependence on foreign oil, and provide a greater diversification of our industry.

Mr. President, we should allow the market to determine what happens to ANS crude oil. The market will determine whether ANS crude oil is sold in the United States or in world markets. By allowing the market to determine the fate of ANS crude oil, we will increase our revenues, reduce our dependence on foreign oil, and provide a greater diversification of our industry.

Mr. President, the export ban on ANS crude oil is one of the most egregious examples of protectionism. By maintaining this ban, American consumers are guaranteed higher fuel prices and a continued glut on the market. By providing the opportunity to sell ANS crude oil, we will increase our revenues, reduce our dependence on foreign oil, and provide a greater diversification of our industry.
Another benefit that would result if the ban is lifted is that royalty revenue for the Federal government would increase, and tax and royalty revenues for Alaska and California would rise. DOE estimates that Federal receipts would increase from $99 million to $180 million, while Alaska royalties and severance would increase from $700 million to $1.6 billion. For California’s state government, returns from royalties and state and local taxes would add $180 million to $230 to the state’s coffers. And three-fourths of these financial benefits could accrue in the next 5 years.

Mr. President, I am fully aware of concerns in the domestic maritime community that if the ban is lifted, the American-flag merchant marine will suffer severe employment declines because all of the oil currently shipped from Alaska to the lower 48 is shipped on American flag tankers. We are sympathetic to this concern and recognize the importance of maintaining a strong American-flag merchant marine. It is for that reason that our legislation requires the oil to be transported on American flag tankers. It is my expectation that these U.S. flag tankers will also be constructed in the United States, but I have not included a U.S.-build requirement in the legislation because of concerns expressed by the President.

Mr. President, the Department of Energy has long supported lifting the export ban. The President has expressed his support for the concept of allowing Alaskan North Slope crude oil to be transported on American flag tankers. It is my expectation that these U.S. flag tankers will also be constructed in the United States, but I have not included a U.S.-build requirement in the legislation because of concerns expressed by the President.

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

S. 70

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

SECTION 1. EXPORTS OF ALASKAN NORTH SLOPE OIL

Section 28 of the Act entitled “An Act to promote the mining of coal phosphate, oil, oil shale, gas, and sulfur on the public domain”, approved February 25, 1930 (commonly known as the “Mineral Leasing Act”) (30 U.S.C. 185), is amended—

(1) by striking subsection (s) and inserting the following:

“EXPORTS OF ALASKAN NORTH SLOPE OIL

“(s) Subject to paragraphs (2) and (3), notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) may be exported.

“(2) Except in the case of oil exported to a country to which a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Oil Sharing Plan of the International Energy Agency, the oil shall be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. 1 et seq.).

“(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1801 et seq.) to prohibit exportation of the oil; and

(2) by deleting subsection (u).

SECTION 2. EFFECTIVE DATE

This Act and the amendments made by it shall take effect on the date of enactment.

Mr. STEVENS. Mr. President, I am pleased to join my colleagues from Alaska and Senator Breaux in introducing legislation to permit the export of Alaskan North Slope crude oil carried on U.S. flag vessels. This vital legislation will create jobs and increase oil production in Alaska and California. Moreover, it will ensure the continued survival of the independent tanker fleet manned by U.S. crews, and thus help enhance our national security while eliminating an injustice that for too long has discriminated exclusively against the citizens of Alaska.

With the Administration’s support, we intend to move this bill as quickly as possible to begin creating jobs, spurring energy production, and preserving our independent tanker fleet.

For Senators who are less familiar with this issue, I think it would be helpful to put the current export ban into perspective. The original ban was first enacted shortly after the commencement of the Arab-Israeli war and the first oil boycott in 1973. It was tightened in 1979 after the second oil shock. The original intent of the law was to enhance energy security, but today it actually discourages energy production and creates unnecessary hardships for the struggling domestic oil industry.

Most North Slope crude oil is delivered to the West Coast, especially California, on U.S. flag vessels. The export ban drastically reduces the market value of the oil, and creates an artificial surplus on the West Coast. This depresses the production and development of both North Slope crude and the heavy crude produced by small independent operations in California.

In June of 1994, the Department of Energy released a comprehensive report which concluded that Alaskan oil exports would boost production in Alaska and California by at least 100,000 barrels per day by the end of the decade. That Department also concluded that permitting exports of this oil on U.S. flag ships would help create as many as 25,000 new jobs and hundreds of millions of dollars in new State and Federal revenues.

Our proposed legislation would require the use of U.S. flag ships to carry the exports, meaning in general that the same ships which carry this oil today will also carry it in the future. The majority of the oil, in fact, would never be exported and would still be sent to refineries in Washington, California, and Hawaii, preserving the shipping and refining industry jobs that are currently suffering from the artificial glut of oil on the West Coast.

Further, although Administration concern about certain international obligations led us to leave out provisions which would have required that these ships actually be built in the U.S., we expect that these ships will in fact continue to be built here and that the domestic shipping industry will benefit greatly from this increased activity which will result from lifting the ban.

Mr. President, I emphasize that this legislation will increase jobs for Americans. It will help small businesses by permitting the oil market to function normally. It will help preserve the independent tanker fleet. It will help slow the decline in North Slope crude oil production and it will encourage additional production in California. Finally, it will help eliminate an injustice which for too long has unfairly discriminated against the citizens of Alaska.

We urge the administration to join with us to help move this bipartisan legislation as quickly as possible.

By Mr. INOUYE:

S. 72. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II, to the Committee on Armed Services.

THE MILITARY CLAIMS ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans’ benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend it commitments to our Filipino veterans and their families who participated in making us the great nation today.

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

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

S. 72

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who performed military service in the Philippine Islands in aid of forces of the United States during World War II which qualifies such person to receive any military, veterans’, or other benefits under the laws of the United States, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of forces of the United States during World War II which qualifies such person to receive any military, veterans’, or other benefits under the laws of the United States.

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. EXPORTS OF ALASKAN NORTH SLOPE OIL
Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

$1051. Use of commissary stores and post and base exchanges by certain disabled former members of the armed forces

(a) In this section—

(1) `former prisoner of war' has the same meaning as provided in section 101(32) of title 38; and

(2) `service-connected' has the same meaning as provided in section 101(18) of such title.

(b) Under regulations prescribed as provided in paragraph (2), a former prisoner of war—

(A) has been separated from active service in the Army, the Navy, the Air Force, or the Marine Corps under honorable conditions, and

(B) has a service-connected disability rated by the Secretary of the Army; or

Chapter 50—Criminal Offenses Committed Outside the United States

Sec. 991. Definitions.

Sec. 992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States.

Sec. 993. Delivery to authorities of foreign countries.

The former prisoners of war act of 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to enable those former Prisoners of War who have been separated honorably from their respective services and who have been rated 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize that it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our Nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent at the end of this bill be printed in the RECORD.
or psychological examinations required after the item relating to chapter 49 the fol-
chapters at the beginning of such title and poses of this section.

constitute appropriate authorities for the pur-
offense under the laws of that country; and such country for trial for such conduct as an
section to the appropriate authorities of a
United States for judicial proceedings in re-
lation in conduct referred to in such para-
graph unless (A) such person is delivered to
author of the laws of that country under
subsection (a) shall be released to the
which constitutes a criminal offense under
such subsection.

(2) A person apprehended and detained under paragraph (1) shall be released to the
custody of civilian law enforcement authori-
ties of the United States for removal to the
United States for judicial proceedings in re-
lation in conduct described in such para-
graph, if the United States, the Associate
General of the United States, or an Assistant
General of the United States may approve
a prosecution which, except for this para-
graph, is prohibited under paragraph (1). An
approval of prosecution under this para-
graph must be in writing. The authority to
approve a prosecution under this paragraph
may not be delegated below the level of As-
istant Attorney General.

(e)(1) The Secretary of Defense may des-
ignate and authorize any member of the
armed forces serving in a law enforcement
position in a criminal investigative agency of the
Department of Defense to apprehend and
detain such person described in subsection (a) if
who is reason-
ably believed to have engaged in a
which constitutes a criminal offense under
such subsection.

§ 993. Delivery to authorities of foreign coun-
tries

(1) Any member of the armed forces des-
ignated and authorized under subsection (e) of
section 992 of this title may deliver any
person determined under subsection (a) to
the appropriate authorities of a foreign
country in which such person is al-
leged to have engaged in conduct described in
such subsection.

(2) A person apprehended and detained under paragraph (1) shall be released to the
custody of civilian law enforcement authori-
ties of the United States for removal to the
United States for judicial proceedings in re-
lation to the conduct of such person.

By Mr. INOUYE:

S. 75. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect to be con-
ducted by a clinical social worker; to the Committee on the Judiciary.

THE PSYCHIATRIC AND PSYCHOLOGICAL
EXAMINATIONS ACT OF 1995

Mr. INOUYE. Mr. President, today I
am introducing legislation to amend
Title 18 of the United States Code to
allow our Nation's social workers to
to provide their mental health exp-
terise to the Federal judiciary.

I feel that the time has come to allow
our Nation's judicial system to have
access to the latest advances in behav-
ioral science and mental health expertise.
I am confident that the enactment of
this legislation would be very much in
our Nation's best interest.

Mr. President, I ask unanimous con-
sent that the text of this bill be printed in
the CONGRESSIONAL RECORD.

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

S. 75

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

SECTION 1. CHARTER.
The National Academies of Practice or-
ganized and incorporated under the laws of the
District of Columbia, is hereby recognized as
such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.
The National Academies of Practice (here-
after referred to in this Act as the "corpora-
tion") shall have only those powers granted to
it through its bylaws and articles of incor-
poration filed in the State in which it is in-
corporated and subject to the laws of such
State.

SEC. 3. PURPOSES OF CORPORATION.
The purposes of the corporation shall be to
honor persons who have made significant
contributions to the practice of applied psy-
chology, dentistry, medicine, nursing, op-
tometry, osteopathy, podiatry, social work,
 veterinary medicine, and other health care
professions, and to improve the practices in
such professions by disseminating informa-
tion about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the cor-
poration shall comply with the laws of the
State in which it is incorporated.

SEC. 5. MEMBERSHIP.
Eligibility for membership in the corpora-
tion and the rights and privileges of mem-
bers shall be as provided in the bylaws of the
corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION;
RESPONSIBILITIES.
The composition and the responsibilities of
the board of directors of the corporation shall be as provided in the articles of incor-
poration of the corporation and in conformity
with the laws of the State in which it is
incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.
The officers of the corporation and the
selection of such officers shall be as provided in the
articles of incorporation of the corpo-
ration and in conformity with the laws of the
State in which it is incorporated.

SEC. 8. RESTRICTIONS.
(a) USE OF INCOME AND ASSETS.—No part of
the income or assets of the corporation shall
inure to any officer, director, or any other
person acting as such officer, director, or any
officer of the corporation.

(b) POLITICAL ACTIVITY.—The corporation
shall not participate or cooperate in any politi-
cal activity or in any attempt to influence
legislation.

(c) ISSUANCE OF STOCK AND PAYMENT OF
DIVIDENDS.—The corporation shall have no
power to issue any shares of stock or to de-
clare or pay any dividends.

(d) CLAIMS OF FEDERAL APPROVAL.—The
corporation shall not claim congressional
approval or Federal Government authority
for any of its activities.

SEC. 9. LIABILITY.
The corporation shall be liable for the acts
of its officers and agents when acting within
the scope of their authority.
S 77. A bill to establish a temporary program under which parenteral diacetylmorphine will be make available through qualified pharmacies for the relief of intractable pain due to cancer; to the Committee on Labor and Human Resources.

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The legislation I am introducing today is supported by thousands of Americans, by any agent or attorney of such member, for any proper purpose, at any reasonable time.

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produces the same pain relief as a dose of morphine. In the terminal phase of cancer, however, it is not possible to take the medication by mouth, and might require injections. As the disease progresses, individuals might require higher doses at more frequent intervals to provide relief. This is when it would be desirable to have the option of heroin in treating pain, since heroin is more potent and more soluble than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, physicians have informed their patients that they must have such an injection—an important consideration in the emaciated, cachectic patient with little tissue mass remaining. In addition, its euphoric effects might be beneficial for people who know they are dying.

Further, the onset of action of heroin is more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these purposes has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why heroin should not be readily available as a therapeutic medication for our Nation’s physicians in very specific situations when we have dying cancer patients who are suffering from pain. William Buller, J. R., Editor-at-Large of National Review, has described our irrational maintenance of the prohibition against such uses of heroin in very real terms. As he pointed out:

The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pim, but licensed doctors may not administer the identical drug to their patients—can’t. We are literally dying from excruciating pain.

Our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill as early as September 4, 1980. At the time, a number of practicing physicians and others— including the Federal government—on heroin be eased to permit the prescription of heroin for patients for whom conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider it to be an indispensable potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

Since this information was made public in the House hearings, the editorial writers of our country have taken up the issue, as reflected in supportive statements by, among a number of others, the New York Times, the Washington Post, the Washington Times, the Los Angeles Times, the San Francisco Chronicle, the San Francisco Examiner, the Honolulu Star-Bulletin, the Honolulu Advertiser, the Chicago Sun-Times, the Cleveland Plain Dealer, the Rocky Mountain News, and the Richmond Times-Dispatch. Both the U.S. Senate and the House of Representatives have backed the proposal. The American Nurses’ Association has strongly endorsed this merciful action. As a result of widespread support among physicians and the general public, heroin has become available in Canada for terminal cancer patients.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs that will permit the use of heroin by terminally ill cancer patients only, when suffering from pain that is not effectively treated with currently available analgesic medications. My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must be made by the attending physician that his or her patients is suffering from pain that is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital where the patient is located.

The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the program.

I strongly believe the proposal will provide substantial benefits to those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

Mr. President, I request unanimous consent that the text of this bill be printed in the Congressional Record.

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

S. 78

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 “Compasionate Pain Relief Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) cancer is a progressive, degenerative, and often painful disease that afflicts one out of every four persons in the United States and is the second leading cause of death;

(2) in the progression of terminal cancer, a significant number of patients experience levels of intense and intractable pain that cannot be effectively treated by presently available medications;

(3) the effect of such pain often leads to a severe deterioration in the quality of life of the patient and heartbreak for the family of the patient;

(4) the therapeutic use of parenteral diacetylmorphine is not permitted in the United States but extensive clinical research has demonstrated that the drug is a potent, highly soluble painkilling drug when properly formulated and administered under the supervision of a physician;

(5) it is in the public interest to make parenteral diacetylmorphine available to patients through controlled channels as a drug for the relief of intractable pain due to terminal cancer;

(6) diacetylmorphine is successfully used in Great Britain and other countries for relief of pain due to cancer;

(7) the availability of parenteral diacetylmorphine for the limited purposes of controlling intractable pain due to terminal cancer will not adversely affect the abuse of illicit drugs or increase the incidence of pharmacy thefts;

(8) the availability of parenteral diacetylmorphine will enhance the ability of physicians to effectively treat and control intractable pain due to terminal cancer; and

(9) it is appropriate for the Federal Government to establish a temporary program to permit the use of parenteral diacetylmorphine for the control of intractable pain due to terminal cancer.

SEC. 3. PARENTERAL DIACETYLMORPHINE PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

“PART O—COMPASSIONATE PAIN RELIEF

SEC. 399G. PARENTERAL DIACETYLMORPHINE.

“(a) REGULATIONS.—

“(1) IN GENERAL.—Not later than three months after the date of the enactment of this section, the Secretary shall issue regulations establishing a program (referred to in this section as the ‘program’) under which parenteral diacetylmorphine may be dispensed under conditions that will prevent its diversion into illicit channels.

“(b) M ANUFACTURING.ÐRegulations established under this section shall provide that manufacturers of parenteral diacetylmorphine for dispensing under the program shall use adequate methods of, and adequate facilities and controls for, the manufacturing, processing, and packaging of such drug to preserve the identity, strength, quality, and purity of the drug.

“(c) AVAILABILITY TO PHARMACIES.—

“(1) REQUIREMENTS.—Regulations established under this section shall require that parenteral diacetylmorphine be made available only to pharmacies that—

“(A) are hospital pharmacies or such other pharmacies as the regulations specify;

“(B) are registered under section 302 of the Controlled Substances Act (21 U.S.C. 822);

“(C) meet such qualifications as the regulations specify; and

“(D) submit an application in accordance with paragraph (2).

“(2) APPLICATION.—An application for parenteral diacetylmorphine shall—
"(A) be in such form and submitted in such manner as the Secretary may prescribe; and

"(B) contain assurances satisfactory to the Secretary that—

"(i) the applicant will comply with such special conditions as the Secretary may prescribe respecting the storage and dispensing of parental diacetylmorphine; and

"(ii) parental diacetylmorphine provided under this paragraph will be dispensed through the applicant upon the written prescription of a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) to dispense controlled substances in schedules II, III, IV, and V.

"(3) INTENT OF CONGRESS.—It is the intent of Congress that—

"(A) the Secretary shall primarily utilize hospital pharmacies for the dispensing of parental diacetylmorphine under the program; and

"(B) the Secretary may distribute parental diacetylmorphine through pharmacies other than hospital pharmacies in cases in which humanitarian concerns necessitate the provision of parental diacetylmorphine, a significant need is shown for such provision, and adequate protection is available against the diversion of parental diacetylmorphine.

"(d) ILLICIT DIVERSION.—Regulations established by the Secretary under this section shall be designed to protect against the diversion into illicit channels of parental diacetylmorphine distributed under the program.

"(e) PRESCRIPTION BY PHYSICIANS.—Regulations established under this section shall—

"(i) require that parental diacetylmorphine be dispensed only to an individual in accordance with the written prescription of a physician; and

"(ii) provide that any such prescription shall be in writing; and

"(f) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Regulations require that—

"(1) the importation of opium; and

"(2) the manufacture of parental diacetylmorphine; and

"(3) the distribution and dispensing of parental diacetylmorphine, in accordance with the program.

"(g) REPORTS.—

"(1) BY THE SECRETARY.—

"(A) IMPLEMENTATION AND ACTIVITIES.—

"(i) IMPLEMENTATION.—Not later than 2 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing information on the activities undertaken to implement the program.

"(ii) ACTIVITIES.—Not later than 1 year after the date the program is established under subsection (a), the Secretary shall prepare and submit to the committee a report containing information on the activities under the program during the 6-month period ending on the date of the report submitted under clause (i).

"(B) PAIN MANAGEMENT.—Not later than 6 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that—

"(I) describes the ways in which the Federal Government supports the training of health personnel in pain management; and

"(II) contains recommendations for expanding and improving training of health personnel in pain management.

"(C) TERMINATION AND MODIFICATION.—

"(1) IN GENERAL.—The Secretary may, at any time after 6 months after the date on which this section is first implemented, modify and terminate the program if in the judgment of the Secretary the program is no longer needed or if modifications or terminations are needed to prevent substantial diversion of the diacetylmorphine.

"(2) FINAL TERMINATION.—The program shall terminate 60 months after the date the program is established under subsection (a).

"(h) IMPLEMENTATION OF THE PROGRAM.—

"(1) THE NUTRITION ASSISTANCE PROGRAM EXTENSION ACT OF 1995

Mr. INOUYE. Mr. President, I rise today to introduce a bill that will add a measure of fairness to the Perishable Agricultural Commodities Act of 1930, to include marketing of fresh cut flowers and fresh cut foliage in the coverage of the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

Mr. INOUYE. Mr. President, I arise today to introduce a bill that will add a measure of fairness to the Perishable Agricultural Commodities Act of 1930 [PACA], which currently ignores an important segment of perishable agricultural commodities, namely, fresh cut flowers and fresh cut foliage. The PACA currently protects the interests of consumers and producers of fresh fruits and vegetables by requiring that the Secretary of Agriculture provide a licensing mechanism for brokers and dealers of these products. In addition, the PACA defines unfair and unlawful practices by such brokers and dealers, requires that such brokers and dealers hold commodities and proceeds of sales in trust for the benefit of unpaid growers, and outlines administrative and judicial causes of action for anyone injured by any violations of the PACA.

The purpose of the PACA is to ensure that the public is assured of quality in the marketing of fresh products and that the producers' interests are protected when they entrust a short-lived commodity to a broker or dealer for transfer and sale. Consumers and producers of fresh cut flowers and fresh cut foliage experience many of the same risks as consumers...
and producers of fruits and vegetables; risks which the PACA seeks to alleviate. For this reason, consumers and producers of fresh cut flowers and fresh cut foliage should be afforded the same quality control and protections provided by the PACA with respect to fruits and vegetables. I urge my colleagues in supporting the bill which will amend the PACA to include fresh cut flowers and fresh cut foliage in its coverage.

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. 80

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

**SECTION 1. INCLUSION OF FRESH CUT FLOWERS AND FRESH CUT FOLIAGE IN PACA COVERAGE.**

Section 306 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)(4)(A)), is amended by striking ``fruits and vegetables'' and inserting ``fruits, fresh cut flowers, fresh cut foliage, and fresh cut foliage''.

By Mr. INOUYE:

S. 81. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

**THE CHILD RESTRAINT SYSTEMS AMENDMENT ACT OF 1986**

Mr. INOUYE. Mr. President, today I am introducing legislation to provide for a Federal income tax credit for those families who purchase a child restraint system for their automobiles.

Accidents and injuries continue to cause almost half of the deaths of children between the ages of one and four, more than half of the deaths of children between five and fifteen, and continue to be the leading cause of death among children and young adults.

It is my understanding that although the Department of Transportation has made injury prevention among children a top priority, a significant number of parents either do not have adequate child restraint systems or do not have them properly installed.

It is imperative that we create this opportunity to provide America’s parents with a financially accessible alternative to the insufficient level of child safety measures currently available for use in automobiles.

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

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

S. 82

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

**SECTION 1. CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS.**

(a) In general. —Subpart A of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end the following new section:

**SEC. 25A. PURCHASE OF CHILD RESTRAINT SYSTEM.**

“(a) General rule. —In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the costs incurred during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

“(b) Definitions. —For purposes of this section—

“(1) QUALIFIED CHILD RESTRAINT SYSTEM. —The term ‘qualified child restraint system’ means—

(A) a device which meets the requirements of section 571.213 of the Code of Federal Regulations.

(B) a device which has the meaning given to such term by section 151(c)(3).

“(2) CHILD. —The term ‘child’ has the meaning given to such term by section 151(c)(3).

“(b) CONFORMING AMENDMENT. —The table of sections for subpart A of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following new item:

“Sec. 25A. Purchase of child restraint system.”

(c) EFFECTIVE DATE. —The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

By Mr. INOUYE:

S. 82. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans’ Affairs.

**THE VETERANS’ HEALTH ADMINISTRATION ACT OF 1995**

Mr. INOUYE. Mr. President, today I am introducing a bill to amendment the Internal Revenue Code of 1986 to provide for the deferral of duty on foreign production equipment in U.S. foreign trade zones where it was to be used until such time as the equipment was placed in commercial operation. In 1988, however, Customs overturned its opinion allowing without any direction from the Congress.

My legislation is consistent with the intent of the Foreign Trade Zones Act of 1934—19 U.S.C. 81(c)—which provides for the deferral of duty on merchandise in foreign trade zones.

Mr. President, I realize this bill will not eliminate the U.S. trade imbalance but it will remove an unnecessary economic burden on U.S. manufacturers and will further enhance our ability to compete in the global marketplace. Further, it will help preserve the American manufacturing base and preserve American jobs. For these reasons, I urge my colleagues to support the prompt passage of this important legislation.

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

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

S. 82

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

**SECTION 1. REVISION OF AUTHORITY RELATING TO THE APPOINTMENT OF CLINICAL AND COUNSELING PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.**

(a) In General. —Section 7401(3) of title 38, United States Code, is amended by striking out “who hold diplomas as diplomats in psychology from an accrediting authority approved by the Secretary”.

(b) Certain Other Appointments. —Section 7401(a) of such title is amended—

(1) in paragraph (1)(B), by striking out “‘Clinical or’ and inserting in lieu thereof “Clinical or counseling psychologists, certified or”;

(2) in paragraph (2)(B), by striking out “‘Clinical or’ and inserting in lieu thereof “Clinical or counseling psychologists, certified or”;

(c) EFFECTIVE DATE. —The amendments made by subheading (b) shall take effect on the date of the enactment of this Act.
(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7602(j) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of enactment of this Act.

By Mr. INOUYE:

S. 83. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

THE PRISONER-OF-WAR MEDAL AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, all too often we find that our Nation's Civilians who have been captured by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner-of-war medal for civilian employees of the Federal Government.

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

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

S. 83

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

SECTION 1. PURPOSE OF ACT.

The purpose of this title is to amend title 5, United States Code, to ensure that our Nation's Civilian Employees of the Federal Government who are forcibly detained or interned by enemy governments or hostile forces receive the recognition they deserve.

SEC. 2. VETERAN'S CONSENT.

Notwithstanding any provision of law to the contrary, prior to the issuance of a prisoner-of-war medal to a person under this title, the person to whom it is issued may be required to sign a statement that the medal is issued to the person for the period of captivity for which the medal was issued.

SEC. 3. NO APPOINTMENT REQUIRED.

Notwithstanding any other provision of law, the President may make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7602(j) of title 38, United States Code, as amended by this title.

SEC. 4. ISSUANCE REQUIREMENTS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7602(j) of title 38, United States Code (as amended by this title), not later than 1 year after the date of enactment of this title.

SEC. 5. RECOGNITION.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall, in addition to any other authority provided by law, issue a prisoner-of-war medal to any person who, after April 5, 1917, is forcibly detained or interned by an enemy government or its agents or by a hostile force under circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments or hostile forces during periods of war.

SEC. 6. ISSUANCE OF MEDAL TO DECEASED PERSON.

If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

SEC. 7. TECHNICAL AMENDMENT.

The table of parts at the beginning of part III of title 5 is amended by inserting after part 23 the following new part:

"CHAPTER 25—MICHELANGELO AWARDs"


(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government was forcibly detained or interned by an enemy government or a hostile force during a period of war, or a period other than war, during a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments or hostile forces during periods of war.

(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1228 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1228(a) of title 10) may issue a suitable device to be worn as determined by the President or such Secretary, as the case may be.

(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

(g) In this section, the term ‘period of war’ has the meaning given such term in section 1211(f) of title 10.

SEC. 8. EFFECTIVE DATE.

This section takes effect on the date of the enactment of this Act.
subsidy we give to the wealthiest Medicare beneficiaries through the Part B premium. The provision would peg the Part B premium to income, reducing the taxpayer subsidy for individuals with income over $100,000 and couples with income over $125,000. The subsidy would be completely phased-out for individuals with income over $250,000 and couples with income over $350,000.

Other savings are generated from a 10 percent home health copayment applied to individuals with incomes over 150 percent of poverty—still only half the copayment charged on other Medicare services. This also addresses the cost limits for home health services; correcting an anomaly in the formula for certain outpatient services; and, continuing the reduction in the inpatient hospital capital reimbursement formula.

Based on the estimates of the provisions in this legislation generated by the CBO for 5 fiscal years, the measure actually generates savings in each of those years, and produces a total of $6.1 billion in deficit reduction over that time.

This must be the approach we adopt, even for those proposals which experience shows will result in savings. By including funding provisions in this long-term care reform measure, we ensure that any additional savings produced by these reforms will only further reduce the budget deficit.

Mr. President, though long-term care reform may serve to move us toward truly comprehensive health care reform, it is very much needed in its own right.

While the population of those needing long-term care is growing much faster than those providing indirect support as taxpayers, informal care, which is largely provided by families, has been stretched to the limit by the economics of health care and the increasing age of the caregivers themselves.

The default system of formal long-term care, currently funded through the Medicaid program, requires that individuals impoverish themselves before they can receive needed care, and it largely limits care to expensive institutional settings.

Failure to reform long-term care will inevitably lead to increased use of the Medicaid system—the most expensive long-term care alternative for taxpayers, and the least desirable for consumers.

Mr. President, there are few statistical forecasts as accurate as those dealing with our population, and estimates show that the population needing long-term care will explode during the next few decades. The elderly are the fastest growing segment of our population, with those over age 85—individuals most in need of long-term care—the fastest growing segment of the elderly. The over 85 population will triple in size between 1990 and 2030, and will be nearly seven times larger in 2050 than in 1980.

The growth in the population of elderly needing some assistance is expected to be equally dramatic. Activities of daily living, or ADL’s, are a common measure of need for long-term care services. These activities include eating, transferring in and out of bed, toileting, dressing, and bathing. In 1988, approximately 6.9 million elderly performed all of these activities. By 2000, this population is expected to increase to 9 million, and by 2040 to 18 million.

Mr. President, that we have been able to stave off a long-term care crisis to date is due largely to the direct caregiving provided by millions of families for their elderly and disabled family members. But here, also, we see that the demographic changes of the next several decades will result in increased strain on the current system.

While the number of people in need of care is increasing rapidly, the population supporting those individuals, either through direct caregiving, or indirectly through their taxes, is growing much more slowly, and thus is shrinking in come.

In 1900, there were about 7 elderly individuals for every 100 people of working age. As of 1990, the ratio was about 20 elderly for every 100, by 2020 the ratio will be 29 per 100, and after that it will increase over 100 by 2040.

These population differences will be further aggravated by the changing nature of the family and the work force. As the Alzheimer’s Association has noted smaller families, delayed childbearing, more women in the work force, higher divorce rates, and increased mobility all mean there will be fewer primary caregivers available, and far less informal support for those who do continue to provide care to family members in need of long-term care services.

Mr. President, while some elderly are relatively well off, thanks in part to programs like Social Security and Medicare that have kept many out of poverty, it is also true that too many seniors still find themselves living near or below the poverty line. This is especially true for those needing long-term care who, on average, are poorer than those who do not need long-term care. In 1990, about 27 percent of people needing help with some activity of daily living survived on incomes below the poverty level, compared with 17 percent of all older people. About half of impaired elderly have income under 150 percent of poverty, compared with 35 percent of all elderly, and, according to Families USA, while 20 percent of the population as a whole had annual family income under $15,685 in 1992, nearly half of the disabled population had income under that level.

Further aggravating the problem is that most family member caregivers are getting older. These caregivers are already an average of 57, with 36 percent of caregivers 65 or older. As the population ages, so will the average age of caregivers, and as the population of caregivers increases, their ability to provide adequate informal care diminishes.

Mr. President, all in all our country faces a rapidly growing population needing long-term care services, a population which is disproportionately poor. At the same time, the group of family caregivers, that has kept most of the population out of long-term care out of government programs like Medicaid, is shrinking relative to those in need of services, and is becoming progressively older.

The inescapable result of these trends is substantial pressure on government provided long-term care services—services that are inadequate in several fundamental ways.

First, with some exceptions, the current system fails to build effectively on the informal care provided by families.

Mr. President, most people with disabilities, even with severe disabilities, rely on care in their home from family and friends. The Alzheimer’s Association estimates that families provide between 80 and 90 percent of all care at any given time. The Association estimates that this informal off-budget care would cost $54 billion to replace.

This last figure can be only an estimate, not because it doesn’t fairly represent the services currently being provided by family members, but because comparable services are largely unavailable from the long-term care system. The variety of home and community-based services provided by family members simply do not exist in many areas.

Mr. President, the prevalence of family-provided caregiving affirms that, in reforming our long-term care system, it is vital that we build on top of the existing informal care that is being provided, not try to substitute for that care by imposing a new system. The goal of long-term care reform is first to enable family caregivers to continue to provide the care they currently give and that their family members prefer.

This, and another weakness of the current long-term care system is the lack of a home and community service capacity. This is due in part to the inadequacies of the Medicaid Program. Enacted in 1965, Medicaid was primarily a response to the acute care needs of the poor. Though Congress did not envision Medicaid as a long-term care program, it quickly became the primary source of Government funds for long-term care services.

For many years, those long-term services provided under Medicaid were almost exclusively institutionally based. Not until institutional services, such as nursing homes, had become well established were community and home-based services funded.

The result of this failure to start given institutional long-term care services has been a continuing bias toward institutions in our long-term care programs. The rate of nursing home use by the elderly since the advent of Medicare and
Medicaid has doubled, while the community and home-based alternatives to institutional care are considered exceptions to institutional care. A State must get a waiver from the Federal Government in order to qualify for community and home-based nonmedical service alternatives under Medicaid. In many cases, a State will otherwise be headed to an institution in order to qualify for those Medicaid-funded community and home-based alternative programs.

More significantly, there remains an absolute entitlement to institutional care that does not exist for the home and community-based waiver alternatives.

Mr. President, many families have been able to provide long-term care services themselves to their elderly and disabled family members, but the lack of even partial support services makes it increasingly difficult for families to choose to keep their family members at home.

According to 1991 Alzheimer's Association study, the family caregiving alternative to Government-funded long-term care is likely to disappear not because of the increasing impairment of the long-term care consumer, but because of the physical, emotional, or financial exhaustion of the caregiver.

Family caregivers suffer more stress-related illness, resulting from exhaustion, lowered immune functions, and injuries, than the general population. Depression among the frail elderly is as high as 43 to 46 percent, nearly three times the norm. The likelihood of health problems is heightened by the relatively high age of caregivers: the average is 57. Thirty-six percent of caregivers are 65 or older.

Mr. President, the impact on the economy of the family caregiver is also significant. Beyond the obvious strain on the personal economy of those families with members needing long-term care services, there is also a significant effect on employers.

One quarter of American workers over the age of 30 care for an elderly parent, and this percentage is expected to increase with 40 percent of workers expected to be caregiving for aging parents in the next 5 years.

There are impressive statistics when one considers that caregivers report missing a week and a half of work each year in order to provide care, and nearly one-third of working caregivers have either quit their job or reduced their work hours because of their caregiving responsibilities.

For those working 20 hours or fewer a week, over half have reduced their work hours because of caregiving responsibilities.

Mr. President, long-term care is very much a women's issue. Women live longer than men, and make up a greater portion of the population needing care. And women are much more likely to be the number that is providing care to a loved one who needs long-term care. One in five women have a parent living in their home, and nearly half of adult daughters who are caregivers are unemployed. Over a quarter of these women said they either quit their jobs or retired early just to provide care for an older person.

In addition to the impact on caregivers as employees, workers, and family breadwinners, there is also a measurable impact on their personal health. Alzheimer's Association study noted, caregivers are more likely to be in poor health than the general population, and are three times more likely to suffer from depression, a condition that raises the risk of other ailments such as exhaustion, lowered immune function, stress-related illness, and injury related to their caregiving responsibilities.

Compounding both the work-related and health-related problems, the burden of this kind of caregiving can increase over time. The Alzheimer's Association study noted that unlike caring for a child, which diminishes over time as the child matures and becomes more independent, caregiving responsibilities increase as they become more dependent and require more care.

Mr. President, failure to reform long-term care will also lead to cost-shifting and will undermine our efforts both to contain acute care costs and further reduce the deficit.

Thanks in large part to the lack of universal coverage and the attendant shared responsibility, the health care system has become expert at shifting costs. Federal and State policymakers, in attempting to control costs, have often only created bigger incentives to shift costs as they try to clamp down in one area only to see utilization jump in another. All too often, no real savings are achieved in the end.

This was seen, for example, when the Federal Government changed several aspects of Medicare reimbursements. Patients were discharged from hospitals quicker and sicker than they had been before, with resulting increase in utilization in other areas, including long-term care services such as skilled nursing facilities.

This example is particularly appropriate. All efforts are made to limit costs in the acute care system. It is precisely this kind of shifting, from the acute care side to the long-term care side, that will occur unless long-term care reforms are pursued.

A grandmother who is discharged from a hospital by an HMO seeking to lower its costs, may have little alternative but to enter a nursing home. Long-term care reform could provide her family with sufficient additional support to be able to care for that grandmother in her own home, and at significantly lower cost to the family and the system as a whole.

But, Mr. President, as important as it is to gain control of our health care costs, long-term care reform is needed first and foremost as a matter of humanity.

In my own State of Wisconsin, long-term care has been the focus of significant reforms since the early 1980s. One long-term care administrator, Chuck McLaughlin of Black River Falls, WI, testified before a field hearing before the Senate Aging Committee in the 103rd Congress that prior to those reforms, he saw an almost complete absence of community or home-based long-term care services for people in need of support.

This was especially visible for older disabled individuals. Except for those few with sufficient resources to create their own system of in-home supports, he saw many forced to enter nursing homes who would have liked to have remained in their own home or community.

McLaughlin noted that though some eventually adjusted to leaving their home and entering the nursing home, others never did.

I saw people who simply willed their own death because they saw no reason to continue living. These were people who were literally torn from familiar places and familiar situations that made up the rhythm of their lives and the history that so richly made them into who they were now. People who had nurtured and sustained their communities which in turn provided them with positive status in that community. These people were truly uprooted and adrift in an alien environment lacking familiar sights, sounds, and smells. Many of them simply chose not to live any longer. While the medical care they received was excellent, they were more than just their physical bodies. Modern medicine has no treatment for a broken spirit.

Mr. President, for many, the current long-term care system continues to be so inflexible as to be inhumane.

Mr. President, there are many reasons for pursuing long-term care reform—certainly more than are addressed here. But the one which may be the most meaningful for those actually needing long-term care is the ability to make their own choice about what kind of care services they receive. In particular, this will mean the chance to remain as independent as possible, living at home or in the community or, if they choose, in an institution.

Survey after survey reveal the overwhelming preference for home-based care, and these findings are consistent with the anecdotal evidence available from just about every family facing some kind of long-term care need.

Ann Hauser, a 74-year-old woman who retired after 30 years as a ward clerk in a Milwaukee hospital, offered testimony at a May 9, 1994 field hearing of the Senate Aging Committee on Long-term Care. Mr. President, for many, there are many reasons for pursuing long-term care reform—certainly more than are addressed here. But the one which may be the most meaningful for those actually needing long-term care is the ability to make their own choice about what kind of care services they receive. In particular, this will mean the chance to remain as independent as possible, living at home or in the community or, if they choose, in an institution.

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transfers. Before much time had passed, I was stuck in a wheelchair. My apathy was not from this situation but from the fact that I lost muscle tone. Within 5 months, I became bedridden. The Heuer lift became a cop-out, and I learned that I was better off trying to keep the use of some of my muscles. The less active I became, the more depressed I became. I was going downhill fast.

How could I be happy in places that allowed the aids to switch the TV station on my television to their favorite soap operas (when I don’t even like shows like that)? Furthermore, I was reminded of how I was at their mercy to finish my bed bath as they stopped to watch “just one more minute,” they would take away my remote control, which I had managed to retrieve and save for later.

The particulars of Ms. Hauser’s experience are less important than the overall loss of control and independency that she experienced, something that is common for many in nursing homes. As Ms. Hauser noted:

> How could I thrive in an environment that counted on my remaining inactive when I had been so active until now?

Dorothy Freund, a nursing home resident who also gave testimony at the hearing, Ms. Freund, who received her BA from Ohio State University, majored in English, and later received an additional degree from MacLean College of Drama, Speech, and Voice in Chicago. After a brief stay in a hospital for treatment of her back, she came to a nursing home for further treatment. She gave up her apartment, because it was not designed for maneuvering in a wheelchair, and she has been on the COP waiting list for a year and a half.

Ms. Freund testified that she enjoys helping people, and this was obvious to those at the hearing as she related her efforts to tutor a nursing assistant who had worked at the nursing home. The aid decided that she would like to become a nurse, and got her LPN license and needed to get her high school diploma. Ms. Freund helped her with English, geometry, government, and geography, and, thanks in large part to Ms. Freund’s efforts, the nursing assistant did return to school and graduate.

Ms. Freund spoke about her experience and her thoughts on living in a nursing home:

> Then why not stay at the nursing home and help others in the same way? It is not an atmosphere of choice and for any length of time. I’m not deprecating the nursing home and its quality of care. They are always looking for ways to improve situations and to solve problems that arise. Nor am I downgrading those who are trying their best to give that care. But when the shouting, moaning, screaming, and babbling all go on at the same time it can be bedlam. It may erupt at any moment. The frustrations of being stuffed in a nursing home, the struggle to ride out the storms, and keep one’s head above water, can seem overwhelming when there’s not even a gleam at the end of the tunnel. But I just can’t resign myself to a life of Bingo and Roll-a-ball. “Don’t cry, there must be a way.” I keep telling myself.

Ms. Freund’s testimony, again, is typical of the experiences of many needing long-term care. And it bears emphasizing that the desire to live in one’s own home, and to be able to function as independently as possible, exists despite the high quality of care that is provided in most nursing homes.

Mr. President, this should come as no surprise in a society that values independence so highly, that we cannot expect an individual’s value system to change the instant they require some long-term care, though this is precisely how our current long-term care system is structured.

If for no other reason, we need to reform our long-term care system to reflect the values we cherish as a Nation, to live, as we wish, independently, in our own homes and communities.

Mr. President, last year I issued a report reviewing the long-term care provisions in President Clinton’s health care reform legislation. I found that the bill did not offer meaningful solutions to the problems of nursing home residents, and it was not designed for maneuvering in a wheelchair, and she has been on the COP waiting list for a year and a half.

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Mr. President, last year I issued a report reviewing the long-term care provisions in President Clinton’s health care reform legislation and offering some modifications to those provisions based on our experience in Wisconsin.

In that report, I noted that Chuck McLaurin’s comments on the importance of community were not only relevant, even central, to the discussion of long-term care, but that community must also be the focus of our efforts in many other areas of our lives as Americans and citizens of the world.

More often than not, the critical problems we face stem from a failure of community or a lack of adequate community-based supports—for example, jobs and economic development, housing, crime, and education. These and other important issues are usually confronted by policymakers at a distance—from Washington, DC, or from state capitals—essentially from the top down.

Too often we have tried to solve these challenges, including the challenge of long-term care, by imposing a superior vision from above. This approach has led to inflexible systems that cannot meet individual needs, but rather end up trying to fit the problem to their own structure.

This fundamental weakness is often enough to undermine even the sometimes huge amounts of money that we spend along to implement the problem solving. It also limits the kinds of creative approaches those who are on the ground may see as useful and necessary.

Mr. President, just as we have a need to reinvent Government to respond more efficiently to our country’s needs and our national deficit, we need also to reinvent community to allow flexible approaches to problems, and to allow those in the community to exercise their judgments, as to how best solve problems.

A great strength of the Wisconsin long-term care reforms, and especially the home and community-based benefit that is offered by this legislation is based, is that it is focused on the needs of the individual. Eligibility is based on disability, not age, and services are centered around the particular needs of a individual rather than the perceived needs of a group.

Rather than trying to fit all of those needing long-term care services into one set of services, this legislation lets case managers, working with long-term care consumers and their families, determine just what services are needed and preferred.

Mr. President, the failure to enact comprehensive reform will not interrupt my own efforts to advocate and push individual reforms that respond to the needs of people that can help save our health care system money.

In home and community-based long-term care reform, we can achieve both.

For taxpayers in Wisconsin, COP has saved hundreds of millions of dollars that would otherwise have been spent on more expensive institutional care.

During the 1980’s, while the rest of the country was experiencing a 24-percent increase in Medicaid nursing home bed use, in Wisconsin, thanks to COP and other long-term care reforms, Medicaid nursing home bed use actually dropped by 9 percent. In a recent talk, Gov. Tommy Thompson noted that COP saves Wisconsin taxpayers about $25 million every year.

At the same time, COP has provided an alternative that allows the consumer to participate in determining the plan of care and in the execution of that plan.

But, Mr. President, at the Federal level we are behind Wisconsin and other states in reforming long-term care. Despite the creation of community-based Medicaid waiver programs, consumers are, for the most part, faced with few alternatives.
In describing the situation facing many elderly disabled prior to the establishment of COP in Wisconsin, Chuck McLaughlin testified before our field hearing that he recalled thinking that when he went to a grocery store there was incredible choice. He noted that there was an entire aisle for various types of pet food.

But when older people encountered frailty and the loss of independence, there were basically no choices for them. It seemed a sad reality that society was doing a much better job at pet care than it was doing at offering choices to humans facing frailty.

Mr. President, that is the plight of many needing long-term care today. The disabled of all ages have few options. And those that they do have are expensive for them, for their families, and for taxpayers.

This proposal will begin to provide the flexibility that State and local government needs to provide consumer-oriented and consumer-directed services.

Mr. President, I ask unanimous consent that a summary of the measure, following the complete text of the legislation, be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 85

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) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this title shall provide that the State will, during any fiscal year that the State is furnishing services under this title, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the fiscal year under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this title or the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated during the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint;

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated during the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE MAINTENANCE OF EFFORT AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(I) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396a(a)(24))).

(II) Home and community-based services furnished under a waiver granted under subsection (d), (e), or (f) of section 1915 of such Act (42 U.S.C. 1396n).

(ii) Home and community care furnished to functionally disabled elderly individuals under section 1931 of such Act (42 U.S.C. 1396u).

(III) Community supported living arrangements services under section 1931 of such Act (42 U.S.C. 1396u).

(iv) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(B) ELIGIBILITY.—Within the amounts provided by the State and under section 108 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 103(a) in the State).

(C) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who applies but whose disability limits their ability to apply. The initial screening and the determination of eligibility (as defined under section 103(b)(1)) shall be conducted by a public agency.

(D) CONTINUATION OF SERVICES.—The plan shall provide assurances that, in the case of any individual with medical assistance for home and community-based services under the State plan, under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this title, the State will continue to make available (either under this title or under any other plan approved under this title) the level of assistance for home and community-based services that was available to such individual on the date when the plan was approved under this title.

(E) PROVISIONS RELATING TO MEDICARE.

Sec. 201. Recapture of certain health care subsidies received by high-income individuals.

Sec. 202. Improved and increased percent copayment on home health services under Medicare.

Sec. 203. Reduction in payments for capital-related goods for inpatient hospital services.

Sec. 204. Elimination of formula-driven overpayments for certain outpatient hospital services.
(iii) the manner in which services under the plan will be provided and administered, with health and long-term care services available outside the plan for individuals with disabilities.

(C) MAINTAINING ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the need for informal care. Any individual plan of care developed under section 104(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) QUALIFICATION.—The State plan shall:

(i) specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) demonstrate that services are allocated and administered according to the needs assessment required under subparagraph (A); and

(v) ensure that:

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based care (other than services under the State Medicaid plan, or under both, is not less than

(vi) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumers of providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual’s designated representative who may be a family member) regarding covered services to receive and the providers who will provide such services.

(G) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 105.

(H) TYPES OF PROVIDERS AND REQUIREMENTS FOR PERSONAL ASSISTANCE SERVICES.—(A) The types of service providers eligible to participate in the plan under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses;

(ii) may not limit benefits to services provided by agencies or providers certified under title XIX of the Social Security Act (42 U.S.C. 1395 et seq.) and

(B) any requirements for participation applicable to each type of service provider.

(I) PROVIDER REIMBURSEMENT.—(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods and the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) the amount of services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall require payment under the plan for covered services to those providers who agree to furnish services under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted pursuant to section 105 as payment in full for services furnished under the plan.

(D) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 106.

(E) ADVISORY GROUP.—The State plan shall:

(A) assure the establishment and maintenance of an advisory group under section 107(b); and

(B) include the documentation prepared by the group under section 107(b)(4).

(F) ADMINISTRATION AND ACCESS.—(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (and to supervise the administration of the plan). The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility pre-screening, service determination, and payment; and

(ii) coordinate with health plans.

(B) ADMINISTRATIVE COSTS.—(A) Such reports, and will cooperate with such audits, as the Secretary shall determine are necessary concerning the State’s administration of its plan under this title, including the processing of claims under the plan; and

(B) such reports, and will cooperate with such audits, as the Secretary may require in a uniform format as specified by the Secretary.

(F) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this title.

(G) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) In subparagraph (A), the State shall follow the choice of an individual with disabilities (or that individual’s designated representative who may be a family member) regarding which covered services shall be required to verify the availability of such care.

(D) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this title according to specified performance standards.

(E) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this title on a timely basis.

SEC. 103. INDIVIDUALS WITH DISABILITIES DEFINED.

(A) IN GENERAL.—For purposes of this title, the term ‘individual with disabilities’ means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—
(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental retardation, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of paragraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFUND MENTAL RETARDATION.—An individual of any age with severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition that require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than a 2 percent pool of individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(I) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall include, in the array of services made available to each category of individuals with disabilities to remain in their homes and community-based services under this title residing in the area, and the State plan shall be adjusted in accordance with a uniform protocol specified by the Secretary.

(ii) be approved by the individual (or the individual's designated representative); and

(iii) specify how the provision of services identified and arranged for services described in subclause (i) shall be made in accordance with a uniform protocol specified by the Secretary.

FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(I) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform protocol tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) subject to any area of the State, the State has determined that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this title residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE. A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan are provided under the State plan under this title;

(ii) identify to the extent possible how the individual will be provided any services specified in subparagraph (A) that are not provided under the State plan;

(iii) specify how the provision of services to the individual under the plan will be coordinated with other health care services to the individual; and

(iv) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State under the State plan or otherwise to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(D) REQUIREMENT FOR HOME AND COMMUNITY-BASED SERVICES.—

(I) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services;

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be made by a public or nonprofit entity that is not providing home and community-based services under this title.

(B) EXCEPTION.—A person who provides home and community-based services under this title may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this title residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities to remain in their homes and community-based services under this title residing in such area, and the State plan shall—

(I) specify the types of services that will be provided under the plan;

(II) specify the processes that the State will implement in order to avoid conflicts of interest.

(e) ADDITIONAL SERVICES.—

(I) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this title may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Transportation.

(E) Home health services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.
The State shall specify in the State plan—
(1) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities and
(2) how the types, and the amount, duration, and scope, of services provided, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(b) Exclusions and limitations.—A State plan may not provide for coverage of—
(1) room and board;
(2) services provided in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or
(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(c) Payment for Services.—In order to pay for covered services, a State plan may provide for the use of—
(1) vouchers;
(2) cash payments directly to individuals with disabilities; and
(3) capitation payments to health plans and payment providers.

(d) Personal Assistance Services.—
(1) In general.—For purposes of this title, the term ‘personal assistance services’ means those services specified under the State plan for assisting individuals with disabilities to perform activities of daily living as deemed necessary or appropriate, whether agency-directed or self-directed (referred to in paragraph (2)). Such services shall include but not be limited to the following areas:
   (A) setting the minimum competency requirements for agency provider employees; and
   (B) setting the minimum standards for agency provider employees.

(2) Consumer-directed.—For purposes of this title:
   (A) In general.—The term ‘consumer-directed’ means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.
   (B) State responsibilities.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—
      (i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and
      (ii) State responsibilities for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers’ compensation coverage, and act as the employer of the home care provider.

(C) Right of consumers.—Notwithstanding the State responsibilities described in subparagraph (B), recipients, or such individuals or entities who they designate, shall retain the right to independently select, hire, terminate, and direct (including managing and verifying services provided) the work of a home care provider.

(3) Agency administered.—For purposes of this title, the term ‘agency-administered’ means in respect to such services, services that are not consumer-directed.

SEC. 105. COST SHARING.

(a) No Cost Sharing for Poorest.—

(b) In general.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(c) Official poverty level.—For purposes of paragraph (1), the term ‘official poverty level applicable to a family of the size involved’ means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(d) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(d) Determination of income for purposes of cost sharing.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.
(A) IN GENERAL.—A client advocacy office established pursuant to this section shall—
   (i) identify, investigate, and resolve complaints that—
      (I) are made by, or on behalf of, clients; and
      (II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the wrongful withholding of the clients with respect to the appointment and activities of guardians and representative payees), of—
         (aa) providers, or representatives of providers, of long-term care services;
         (bb) public agencies; or
         (cc) health and social service agencies;
   (ii) provide services to assist the clients in protecting their health, safety, welfare, and rights of the clients;
   (iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (i)(ii);
   (iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and
   (v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this title.

(B) CONTRACTS AND ARRANGEMENTS.—
   (i) As part as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
   (ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(C) SAFEGUARDS.—
   (1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or dissemination of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.
   (2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.
   (3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations consistent with the requirements on States under this subsection.

(D) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:
   (1) The right to be fully informed in advance, orally and in writing, of the care to be provided and the procedures to be followed in care, including changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning and making decisions concerning care; and
   (2) The right to—
      (A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or appeal for voice grievances;
      (B) be told how to complain to State and local authorities; and
      (C) prompt resolution of any grievances or complaints.

(E) The right to confidentiality of personal and clinical records and the right to have access to such records.

(F) The right to privacy and to have one's property treated with respect.

(G) The right to refuse all or part of any care and to be informed of the likely consequences.

(H) The right to education or training for oneself and for members of one's family or household on the management of care.

(I) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an approved care plan.

(J) The right to be fully informed orally and in writing of the individual's rights.

(K) The right to a free choice of providers.

(L) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 107. ADVISORY GROUPS.

(A) FEDERAL ADVISORY GROUP.—
   (1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this title.
   (2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(B) STATE ADVISORY GROUPS.—
   (1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance at an advisory group (to advise the State on all aspects of the State plan under this title.
   (2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor of the State (or a representative of the Governor) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).
   (3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities, and their representatives, shall be given the opportunity to nominate members to the advisory group.
   (4) PARTICULAR CONCERNS.—Each advisory group shall—
      (A) before the State plan is developed, advise the Governor on guiding principles and values, policy directions, and specific components of the plan;
      (B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan; and
      (C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;
   (D) report to the Governor and make available to the public any notices between the group's recommendations and the plan;
   (E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and
   (F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 108. PAYMENTS TO STATES.

(A) IN GENERAL.—Subject to section 1001(b), the payment to States under this title shall be as follows:
   (1) IN GENERAL.Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan.
   (2) COMPOSITION. The group shall be composed of individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(B) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In sub-section (a), the term “Federal home and community-based services matching percentage” means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1903(b) of the Social Security Act (42 U.S.C. 1396b(a))) increased, as the case may be, by any sum (not to exceed 20 percent of the amount allotted to the State under section 190(b), the Federal home and community-based services matching percentage as defined in subsection (b) of such section); and
   (2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities.

(C) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:
   (1) The Secretary shall, prior to the beginning of each quarter, estimate the total amount to be paid to the State under subsection (a) for the prior quarter, based on the best information the Secretary shall have and any errors in the prior year's payment by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.
   (2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid to the State for any prior period under this section was greater or less than the amount that should have been paid.

(D) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act (42 U.S.C. 1396w) shall apply to payments to States under section 1903(a) of such Act (42 U.S.C. 1396a)).
(e) Failure to Comply With State Plan. — If a State furnishing home and community-based services under this title fails to comply with the State plan approved under this title, the Secretary may either reduce the Federal assistance amount for the State (as determined by the Secretary) that would have been made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) but for the provisions of this subpart, or withhold from Federal assistance payments under the program under this title.

(ii) Annual Publication.—The Secretary shall publish before the beginning of each fiscal year, the adjusted appropriation authorized under this subsection for such fiscal year.

(D) Construction.—Nothing in this subpart shall be construed as requiring States to determine eligibility for medical assistance under the State Medicaid plan on behalf of individuals receiving assistance under this title.

(B) Allocation to States. —

(i) In General.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (3) of this subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this title, in accordance with a formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State; and

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of individuals with incomes at or below 150 percent of the Federal poverty line (as described in section 1902(a)(6) of this title) in all States that reside in a particular State.

(2) Allocation for Client Advocacy Activities.—Each State with a plan approved under this title, in an amount equal to one-half of the Federal offsets and reductions in such fiscal year attributable to paragraph (1) for client advocacy activities as described in section 1902(a)(9)(A).

(3) No Duplicate Payment.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1902(a)(9)(A) of the Social Security Act (42 U.S.C. 1396b(a)).

(4) Reallocations.—Any amounts allotted to States under this subsection for a fiscal year that are not spent on health care services for individuals with disabilities in the State may be reallocated to States as the Secretary determines appropriate.

(5) Savings Due to Medicaid Offsets.—

(A) In General.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under this title, an amount equal to the Federal offsets and reductions in such fiscal year attributable to paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this title, in an amount equal to the Federal offsets and reductions in such State's Medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(1), as adjusted by the percentage change in the Federal Government's index of the total personal consumption expenditures for all urban consumers that was reported for the fiscal year under paragraph (1) of subsection (a) for the previous fiscal year, greater or less than the estimated percentage change in the Federal Government's index of the total personal consumption expenditures for all urban consumers that was reported for the fiscal year beginning on October 1, 1995, and ending at that midpoint; and (ii) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change.

(B) Base Medical Assistance Amount.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance for home and community-based services described in section 102(a)(1)(C).

(C) State Entitlement.—This title constitutes budget authority in advance of appropriations Acts, and obligates the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 110. FEDERAL EVALUATIONS.

(a) In General. — Not later than December 31, 2002, December 31, 2005, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation rates described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) National Assessments. — Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress concerning the feasibility of programs that reimburse health plans and other payors of health services for full geriatric assessment, when recommended by a physician.

SEC. 111. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) Findings. — Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to States and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term health care services that meet individual needs and preferences can be arranged in home and community-based settings as an alternate long-term placement in nursing homes or other institutional settings.
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CONGRESSIONAL RECORD — SENATE  January 4, 1995
(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) Dissemination of Information.—The Secretary shall compile, evaluate, and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in home and community-based settings, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to State and public or nonprofit private entities for the execution of planning and development programs and projects that facilitate the discharge of individuals from hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

(c) Administrative Provisions.—

(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

(A) (i) a State agency as defined in section 102(43) of the Older Americans Act of 1965 (42 U.S.C. 3002(43)); or

(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

(2) CARE APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require, including—

(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-based care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care services and use of such plan to facilitate discharge into such settings;

(C) assurances that nongovernmental case management agencies funded under grants awarded for the execution of such planning and development programs will have access to providers of home and community-based services;

(D) satisfactory assurances that adequate home and community based long-term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals in such community under this program can be served in such home and community-based settings, with flexible, individualized care that reflects individual choice and preferences;

(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long-term care programs in order to provide satisfactory assurances that adequate home and community-based long-term care services are available in the community to be served.

(b) AWARDED OF GRANTS.—

(1) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long-term care with hospital discharge planning and discharge planning teams;

(ii) demonstrate that adequate home and community-based long-term care management and services are available, or will be made available, within the community to be served under the program funded with amounts received under subsection (b).

(2) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

(i) are equitably distributed on a geographic basis;

(ii) include projects operating in urban areas and projects operating in rural areas; and

(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

(c) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary to facilitate the implementation of the home and community-based long-term care programs funded with amounts received under subsection (b).

(d) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development, and implementation of demonstration projects and to provide reimbursement for the costs of one or more more case managers to be located in or assigned to selected hospitals who—

(A) identified under (a)(i) as providing individualized care in home and community-based long-term care;

(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

(direct) SERVICES SUBJECT TO REIMBURSEMENT.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.).

(e) LIMITATIONS.—

(1) IN GENERAL.—Grants awarded under this section shall be for terms of less than 3 years.

(2) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

(3) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

(b) EVALUATION AND REPORTS.—

(1) REQUIREMENTS.—The Secretary shall require that an entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long-term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

(2) REPORT TO COMMITTEES OF CONGRESS.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1996 through 1998.

TITLE II—PROVISIONS RELATING TO MEDICARE

SEC. 201. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subtitle A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS." (b) INCOME INDIVIDUALS.

"SEC. 598. Recapture of certain health care subsidies.

"SEC. 599. Recapture of certain health care subsidies.

"(a) Imposition of Recapture Amount.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds more than $150,000 or more than $300,000 for a married individual filing a joint return, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to—

(1) 200 percent of the monthly actuarial value of the excess of the Medicare Part B premium recapture amount for the coverage of the individual under such part.

(2) the total monthly premium under section 1839(a)(1) of the Social Security Act, over the modified adjusted gross income of the taxpayer for the taxable year exceeded by the limitations determined without regard to subsections (b) and (f) of section 1399 of such Act.

(3) Phase-in of Recapture Amount.—In the case of a taxpayer who received a subsidy during the calendar year under section 1839(a)(1) of the Social Security Act, over the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less
than $25,000, the recapture amount imposed by this subsection shall be in an amount that bears the same ratio to the recapture amount that would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $25,000.

(2) Joint Returns.—If a recapture amount is determined separately for each spouse filing a joint return, then (A) paragraph (1) of this subsection shall be applied by substituting "$20,000" for "$25,000" each place it appears.

(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(i) MARITAL CONDUCT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $100,000;

"(B) $125,000 in the case of a joint return; and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year; and

"(ii) does not live apart from his spouse at all times during the taxable year.

(2) DETERMINATION OF MARRITAL CONDUCT.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) without regard to sections 136, 911, 931, and 933; and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year that is exempt from tax.

(3) Joint Returns.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse; and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter; or

"(ii) the amount of the minimum tax under section 59B.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

(3) Transfers to Federal Supplementary Medical Insurance Trust Fund.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 3 of the Internal Revenue Code of 1986 that is attributable to the application of section 596(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amount referred to in paragraph (1). Amounts transferred shall be in an amount equal to the sum of the recapture amounts referred to in such section 596(a) for such quarter. Property adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) of the Internal Revenue Code of 1986 (relating to reporting required by sections 6050F and 6050J (as defined in section 1505(p)(2) for a family of the size involved)."

(2) Conforming Amendment.—Section 1861(a)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end of such section the following new sentence:

"(ii) does not live apart from his spouse at all times during the taxable year that is exempt from tax.

(3) Subparagraph (A) of section 6050F(c)(1) of such Code is amended by inserting before the comma "and Medicare part B coverage" before the period.

(4) The heading for section 6050F of such Code is amended by inserting "AND MEDICARE PART B COVERAGE" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of such Code is amended by inserting before the comma "and Medicare part B coverage" before the period.

(6) Waiver of Estimated Tax Penalties.—No additional tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 15, 1998, with respect to any underpayment to the extent that such underpayment resulted from section 6050F of the Internal Revenue Code of 1986, as added by this section.

(d) Clerical Amendment.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 202. IMPOSITION OF 10 PERCENT ABATEMENT FOR HOME HEALTH SERVICES UNDER MEDICARE.

(a) In General.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

"(1) by striking 'an estimated charge or at nominal charges to the public, patients are low-income' and inserting 'the average nationwide per visit cost for such a service furnished under this chapter; or

"(2) by inserting 'and Medicare part B coverage' before the period.

"(2) TRANSFERS.—The amounts appropriated by this section shall apply to taxable years beginning after December 31, 1995.

"(3) Effective Date.—The amendments made by this section shall apply to home health services furnished on or after January 1, 1996.

SEC. 203. REDUCTION IN PAYMENTS FOR CAPITOL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—

"(1) Reduction in Base Payment Rates for PPS Hospitals.—Section 1886(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding (after the period) the following new sentence:

"(B) and Medicare part B coverage' before the period.

"(B) by striking 'an estimated charge or at nominal charges to the public, patients are low-income' and inserting 'the average nationwide per visit cost for such a service furnished under this chapter; or

"(2) by inserting 'and Medicare part B coverage' before the period.

"(3) Transfers to Federal Supplementary Medical Insurance Trust Fund.—

"(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 3 of the Internal Revenue Code of 1986 that is attributable to the application of section 596(a) of such Code, as added by this section.

"(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amount referred to in paragraph (1). Amounts transferred shall be in an amount equal to the sum of the recapture amounts referred to in such section 596(a) for such quarter. Property adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) Reporting Requirements.—

"(1) Paragraph (1) of section 6050F(a) of the Internal Revenue Code of 1986 (relating to reporting required by sections 6050F and 6050J (as defined in section 1505(p)(2) for a family of the size involved)."

"(2) Conforming Amendment.—Section 1861(a)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end of such section the following new sentence:"
(ii) by striking the semicolon at the end and inserting a period; and

(iii) by inserting after subparagraph (C) the following new subparagraph:

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(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the
fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph
(B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in
capital costs per discharge for fiscal years 1992 prior to fiscal year 1992 but in no event may such reduction result in an annual update
factor less than zero.

(ii) In clause (i), the term ‘applicable update reduction’ means, with respect to the update factor for a fiscal year—

(1) 4.9 percentage points; or

(2) the update factor for the previous fiscal year was less than the applicable update factor for the previous year, the sum of 4.9 percentage points and the
difference between the annual update factor for the previous year and the applicable update reduction for the previous year.
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(b) PPS-EXEMPT HOSPITALS.—Section 1886(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is further amended by adding at
the end the following new subparagraph:

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(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(c)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(c)(1)(A)), the Secretary shall include a reduction in the annual update factor established under paragraph
(B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in
capital costs per discharge for fiscal years 1992 prior to fiscal year 1992 but in no event may such reduction result in an annual update
factor less than zero.
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SEC. 204. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUT-OF-STATE HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(I) of the Social Security Act (42 U.S.C. 1395f(i)(3)(B)(i)(I)) is amended—

(1) in general.—Section 1833(i)(3)(B)(i)(I) of the Social Security Act (42 U.S.C. 1395f(i)(3)(B)(i)(I)) is amended—

(A) in subsection (II), by striking ‘‘or’’ at the end; and

(B) by inserting after clause (ii) the following new clause (iii): —

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(iii) by striking ‘‘112 percent’’, and inserting ‘‘and 112 percent’’, and

(C) by inserting after clause (iii) the following new clause (iv): —

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(iv) (I) 1.12; or

(II) if the annual update factor for the previous fiscal year was less than the applicable update factor for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.
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(b) RADIOLoGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1395f(n)(1)(B)(ii)(I)) is amended—

(1) by striking ‘‘of 80 percent’’; and

(2) by striking the period at the end and inserting the following—:

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, less the amount a provider may charge as described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years 1992 prior to fiscal year 1992 but in no event may such reduction result in an annual update factor less than zero.
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(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1995.

SEC. 205. REDUCTION IN ROUTINE COST LIMITS FOR HEALTH CARE SERVICES.

(a) REDUCTION IN UPDATE TO MAINTAIN FREEZE IN 1996—

(1) IN GENERAL.—Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(I)) is amended—

(A) in subsection (II), by striking ‘‘or’’ at the end; and

(B) in subsection (III), by striking ‘‘112 percent’’, and inserting ‘‘and 112 percent, or’’, and

(C) by inserting after subsection (III) the following new subparagraph:

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(IV) (i) 1.12; and

(ii) by striking the semicolon at the end and inserting the following—:

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, less the amount a provider may charge as described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years 1992 prior to fiscal year 1992 but in no event may such reduction result in an annual update factor less than zero.
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(b) BASING LIMITS IN SUBSEQUENT YEARS ON MEDIAN OF COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(I)) is amended—

(A) by striking ‘‘the median’’; and

(B) in subclause (III), by striking ‘‘112 percent’’; or

(C) by inserting after subparagraph (B) the following new subparagraph:

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(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph
(B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years 1992 prior to fiscal year 1992 but in no event may such reduction result in an annual update factor less than zero.

(ii) In clause (i), the term ‘applicable update reduction’ means, with respect to the update factor for a fiscal year—

(1) 4.9 percentage points; or

(2) the update factor for the previous fiscal year was less than the applicable update factor for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.
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was included relating to States' recovering Medicaid payments from the estates of beneficiaries, for certain services to people over age 55. HCFA has interpreted OBRA 93 to mandate the recovery of, among other things, home and community-based long-term care services. Until changed, States will have to implement the mandate.

This legislation modifies the estate recovery provisions of OBRA 93 to clarify that States may pursue recovery of the cost of Medicaid home and community-based long-term care services from the estates of beneficiaries, but that States are not required to do so.

Mr. President, in the past, States have had the option of recovering payments for those services from the estates of beneficiaries, but in some cases, at least, have chosen not to do so.

In Wisconsin, estate recovery for home and community-based long-term care services was implemented briefly in 1991, but was terminated because of the significant problems experienced with the community-based Medicaid waiver programs.

Many cases were documented where individuals needing long-term care refused community-based care because of their fear of estate recovery or the placement that may have come from the recovery.

One case in southwestern Wisconsin involved an older woman who was suffering from Congestive Heart Failure, phlebitis, severe arthritis, and who had difficulty just being able to move. She was being screened for the Medicaid version of Wisconsin's model home and community-based long-term care program, the Community Options Program, when the caseworker told her of the new law, and that a lien would be put on the estate of the program's clients. The caseworker reported that the older woman began to sob, and told the caseworker that she had worked all her life and paid taxes and could not understand why the things she had worked for so hard would be taken from her.

When asked if she would like to receive services, the client refused. As frail as this client was, the social worker noted that she preferred to chance being on her own rather than forego medical care they knew they need to be able to leave a small legacy.

The prospect of estate recovery requirements is not a happy one for program administrators either. State, counties, and non-profit agencies, administrators of Medicaid services, are ill-equipped to be agents.

Divestment concerns in the Medicaid program, already a problem, could continue to grow as pressure to utilize existing loopholes increases with estate recovery mandated in this way. Worse, as I noted above, in Wisconsin. Aging Groups has pointed out, children who feel "entitled to inheritance" might force transfers, constituting elder abuse in some cases.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination.

Mr. President, I strongly believe we must be prudent in estimating the costs of legislative proposals, and to that end it is vital that we accept the cost estimates from the Congressional Budget Office (CBO) for purposes of assessing the impact of legislation and how those impacts are to be offset. For those reasons, I have included provisions in this measure that are scored by CBO to more than offset the officially estimated loss in savings from the estate recovery mandate.

But, Mr. President, I also believe that the expected savings from this mandate are questionable.

Prior to enacting estate recovery in Wisconsin, officials estimated $13.4 million a year could be recovered by the liens. Real collections fell far short. For fiscal year 1992, the State only realized a reported $1 million in collections. And for the period of January to July of 1993, even after officials lowered their estimates, only $2.2 million was collected, an expected $3.8 million in collections.

In addition to lower than expected collections, the refusal to accept home and community-based long-term care because of the prospect of a lien on the estate could lead to the earlier and more costly need for institutional care. Such a result would not only undercut the questionable savings from the program, but would be directly contrary to the Medicaid home and community-based waiver program, which is intended precisely to keep people out of institutions and in their own homes and communities.

The brief experience we had in Wisconsin led the State to limit estate recovery to nursing home care and related services, where, as a practical matter, the potential for estate recovery and continued residence in a home are much less of a barrier to services.

Indeed, just as we should provide financial incentives to individuals to use more cost-effective care, so too should we consider financial disincentives for more costly alternatives. A recent study in Wisconsin showed that two Medicaid waiver programs saved $17.6 million in 1992 by providing home and community-based alternatives to institutional care.

In that context, including the more expensive institutional care alternatives in the estate recovery mandate makes good sense, and my legislation would not change that portion of the law.

But it does not make sense to jeopardize a program that has produced many more times the savings in lower institutional costs than even the overly optimistic estimates suggest could be recovered from the estates of those receiving home and community-based long-term care.

All in all, the estate recovery provisions of OBRA 93, as interpreted by HCFA, will generate little additional revenue, are likely to produce more expensive utilization of Medicaid services, may cause an administrative nightmare for state and local government, could aggravate the divestment problem, may result in increased elder abuse, and could well constitute age discrimination.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination and ought to be minimized.

Mr. President, I strongly believe we must be prudent in estimating the costs of legislative proposals, and to that end it is vital that we accept the cost estimates from the Congressional Budget Office (CBO) for purposes of assessing the impact of legislation and how those impacts are to be offset. For those reasons, I have included provisions in this measure that are scored by CBO to more than offset the officially estimated loss in savings from the estate recovery mandate.

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All in all, the estate recovery provisions of OBRA 93, as interpreted by HCFA, will generate little additional revenue, are likely to produce more expensive utilization of Medicaid services, may cause an administrative nightmare for state and local government, could aggravate the divestment problem, may result in increased elder abuse, and could well constitute age discrimination.

Though many long-term care experts maintain that mandating estate recovery for home and community-based long-term care services will only lead to increased utilization of more expensive institutional alternatives, and thus increased cost to Federal taxpayers, the CBO estimated a revenue loss of $20 million in the first year and $260 million over five years for this proposal.

As I noted above, it is important to act responsibly to fund that formal cost estimate with offsetting spending cuts. The additional savings I firmly believe will be generated beyond the scored amounts would then help reduce our Federal budget deficit.

This measure includes a provision that more than offsets the official savings losses from eliminating the estate recovery mandate. That provision regulates the growth in the number of nursing home beds eligible for Federal funding through Medicaid, Medicare, or other Federal programs.
by requiring providers to obtain a certificate of need (CON) to operate additional beds. For any specified area, States would issue a CON only if the ratio of the number of nursing home beds to the population that is likely to need them falls below guidelines set by the State and subject to Federal approval. This approach allows new nursing home beds to operate where there is a demonstrated need, while limiting the potential burden on the taxpayer where no such need has been established. Slow growth in the number of nursing home beds is critical to reforming the current long-term care system. In Wisconsin, limiting nursing home bed growth has been part of the success of the long-term care reforms initiated in the early 1980s. While the rest of the country experienced a 24 percent increase in Medicaid nursing home bed use during the 1980s, Wisconsin saw Medicaid nursing home bed use decline by 19 percent. The certificate of need provision is far more modest than the absolute cap on nursing home bed growth that was adopted in Wisconsin, and recognizes that there needs to be some flexibility to recognize the differences of long-term care services among States.

It is also consistent with the kind of long-term care reform I will be proposing as separate legislation, as well as the reforms included in several of the major health care reform proposals of last session.

Certainly, our ability to reform long-term care will depend not only on eliminating the State mandate on nursing home beds is critical to reforming the current long-term care system. In Wisconsin, limiting nursing home bed growth has been part of the success of the long-term care reforms initiated in the early 1980s. While the rest of the country experienced a 24 percent increase in Medicaid nursing home bed use during the 1980s, Wisconsin saw Medicaid nursing home bed use decline by 19 percent. The certificate of need provision is far more modest than the absolute cap on nursing home bed growth that was adopted in Wisconsin, and recognizes that there needs to be some flexibility to recognize the differences of long-term care services among States.

It is also consistent with the kind of long-term care reform I will be proposing as separate legislation, as well as the reforms included in several of the major health care reform proposals of last session.

Certainly, our ability to reform long-term care will depend not only on establishing a consumer-oriented, consumer-driven home and community-based services that is available to the severely disabled of all ages, but also on establishing a more balanced and cost-effective allocation of public support of long-term care services by eliminating the current bias toward institutional care.

As I noted above, an analysis by the CBO estimated that the lost revenue from eliminating the State mandate on home and community-based services would be $20 million in the first year, and $260 million over 5 years. However, in their spending and revenue options document for 1994, CBO estimates that the proposed regulation of nursing home bed growth would generate savings of $35 million in the first year, and $625 million over 5 years. The combined effect of this proposal, then, would be to generate about $15 million in savings in the first year, and $365 million over 5 years.

Mr. President, taken together, the change in the estate recovery provisions and the slowing of nursing home bed growth, these two provisions will help shift the current distorted Federal long-term care policy away from the institutional bias that currently exists and toward a more balanced approach that emphasizes home and community-based services.

This is the direction that we will need to take if we are to achieve significant long-term care reform.

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

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

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

SECTION 1. MEDICAID ESTATE RECOVERIES.

Section 1917(b)(1)(B) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)) is amended by adding the following at the end:

'(ii) at the option of the State, any additional items or services under the State plan,'"

SEC. 2. REQUIRING STATES TO REGULATE GROWTH IN THE NUMBER OF NURSING FACILITY BEDS.

(a) In General.ÐA nursing facility shall not receive reimbursement under the medicare program under title XVIII of the Social Security Act, the medicaid program under title XV of such act, or any other Federal program for services furnished with respect to any beds first operated by such facility on or after the date of the enactment of this Act unless a certificate of need is issued by the State with respect to such beds.

(b) Issuance of Certificate.ÐA certificate of need may not be issued by a State with respect to a geographic area only if the ratio of the number of nursing facility beds in such area to the total population in such area is below a level established by the Secretary of Health and Human Services under subsection (c).

(c) Approval of Guidelines.ÐThe Secretary of Health and Human Services shall promulgate regulations under which States may submit proposed guidelines for the issuance of certificates of need under subsection (b) for review and approval.

By Mr. INOUYE:

S. 87. A bill to amend the Foreign Trade Zones Act to permit the deferral of payment of duty on certain production equipment; to the Committee on Finance.

THE FOREIGN TRADE ZONES ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration [VHA].

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served their country in the Armed Forces. It is certainly fitting that this should be done.

Recently a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruitment and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions from which a significant portion of our veterans suffer. For example, programs related to homelessness, substance abuse, and post traumatic stress disorder [PTSD] have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, high vacancy and turnover rates for psychologists in the VHA (over 11% and 18% respectively as reported in one recent survey) might seriously jeopardize these programs and will negatively impact overall patient care in the VA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates of pay as well as by the low number of clinical and counseling psychologists appearing on the register of the Office of Personnel Management [OPM]. Most new hires have no post-doctoral experience and are hired immediately after a VA internship. Recruitment, when successful, takes up to six months or more.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40% of VHA psychologists had five years or less of post-doctoral experience. Without doubt, our veterans would benefit from a higher percentage of senior staff who are more experienced in working with veterans and their particular concerns. May bill provides incentives for psychologists to continue their work with the VHA and seek additional education and training.

Several factors are associated with the difficulties in retention of VHA psychologists including low salaries and lack of career advancement opportunities. It seems that psychologists are apt to leave the VA system after 5 years because they have almost reached peak levels for salary and promotion development in the VHA. Furthermore, under the present system psychologists cannot be recognized nor appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral disorders and mental health problems are deserving of better psychological care from more experienced professionals than they are currently receiving.

A hybrid Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems in several ways. The length of time it takes to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated by the Office of Personnel Management. This would also facilitate the recruitment of applicants who are not recent VA interns by reducing the amount of time between
identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention of behavioral science experts will be greatly alleviated with the implementation of a hybrid Title 38 system for VA psychologists, primarily through offering financial incentives for psychology interns to pursue professional development with the VHA. Achievement that would merit salary increases under Title 38 should include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and/or efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomat status, and becoming a fellow of the American Psychological Association.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is, without question, a significant factor in the recruitment and retention difficulties that I have addressed repeatedly, an across-board salary increase might be necessary. However, the conversion of psychologists to a hybrid Title 38, as proposed by this amendment, would provide relief for these difficulties and enhance the quality of care for our Nation’s veterans and their families.

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

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

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

SECTION 1. DEFERRAL OF DUTY ON CERTAIN PRODUCTION EQUIPMENT.

(a) In General.—Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 82b) is amended by adding at the end thereof the following new subsection:

"(f) PRODUCTION EQUIPMENT.—

(1) In General.—Notwithstanding any other provision of law, if all applicable customs laws are complied with (except as otherwise provided in this subsection), merchandise which is entered into a foreign trade zone for use within such zone as production equipment or as parts for such equipment, shall not be subject to duty until such merchandise is completely assembled, installed, tested, and produced in which it was entered. The duty imposed on such merchandise shall be at the same rate as would have been imposed (but for the provisions of this subsection) on such merchandise had duty been imposed on such merchandise at the time of entry into the customs territory of the United States.

(2) FOREIGN TRADE ZONE.—For purposes of this subsection, the term ‘foreign trade zone’ includes a subzone as defined in section 146.1(b)(7) of chapter 19, Code of Federal Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to merchandise entered, or withdrawn from warehouse, after the date that is 15 days after the date of the enactment of this Act.

By Mr. INOUYE:

S. 89. A bill to amend the Science and Engineering Equal Opportunities Act; to the Committee on Labor and Human Resources.

THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I rise to introduce a bill that begins to address the need for culturally sensitive math and science education targeted toward Native American, Native Hawaiian and Pacific Islander students.

Native American, Native Hawaiian and Pacific Islander students perform significantly below average in these subjects at the elementary and secondary levels and are extremely underrepresented in math and science majors at the college level. My legislation would provide for the development and implementation of culturally sensitive math and science curricula emphasizing the scientific achievements of these native cultures.

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. 89

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

SECTION 1. AMENDMENT TO THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.

(a) OPPORTUNITIES FOR STUDENTS.—Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1880) is amended by adding at the end the following new subsection:

"(c)(1) The Congress finds that Native Hawaiian students, students who are Pacific Islanders, and Native American students are underrepresented in math and science majors at the college level. My legislation would provide for the development and implementation of culturally sensitive math and science curricula.

(2) The Director is authorized to make awards to institutions of higher education, including community colleges, and local educational agencies to work in partnership with community-based organizations to develop, implement science, computer science, technology, and mathematics curricula that—

(A) are in accord with the traditional cultural values of the students described in paragraph (1);

(B) emphasize the scientific achievements of the native cultures of such students; and

(C) encourage enrollment of such students in higher education.

by Mr. HATFIELD:

S. 88. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, non-profit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans; to the Committee on Governmental Affairs.

S. 90. A bill to amend the Job Training Partnership Act; the Committee on Labor and Human Resources.

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 92. A bill to provide for the reconstitution of outstanding repayment obligations of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD.

S. 93. A bill to amend the Federal Land Policy and Management Act of 1976 to provide for ecosystem management, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATIVE PRIORITIES

Mr. HATFIELD. Mr. President, this country has crossed many thresholds of change in the past two hundred years. As we begin the 104th Congress today, we face another set of challenges. The opportunity to change direction in our national domestic policy is again offered to us, facilitated by the recent change in leadership.

The Republican call to return to the essence of democracy—federalism—is especially exciting. I intend to dedicate myself this Congress to redefining Federal programs to enhance the efforts already underway in the States. I am convinced, as are many of my colleagues, that the best policy making in this country is bubbling forth from laboratories commonly known as our United States.

To inaugurate the new year and the new Congress, I am introducing five of my key legislative priorities today. First, in what I intend to be a series of proposals, are three bills designed to decrease the burden of Federal compliance and oversight measures in key policy areas. In exchange for loosening the federal regulatory straitjacket, we will transform accountability from paperwork requirements to performance-based results. I call this the "flexibility factor" in government and it entails finding a path through every Federal agency with innovation at the State and local level is nurtured and rewarded. We have already had some success in this area in the Department of Education—Secretary Riley and his staff have worked with Congress to capitalize on being more responsive and flexible with States which are on the cutting edge of educational reform. This example will help guide us through the same land mines in other Federal agencies.

Second, I am introducing today two bills which focus on some of the major issues in the Northwest. The first deals with stabilizing the longterm outlook for the major provider of power supply in the Northwest, the Bonneville Power Administration, and the second considers the future of natural resource management.

Mr. President, this is not an exclusive list of my priorities for the 104th Congress. I will have other proposals—
particularly in the areas of small business development, youth violence prevention, environmental protection, and recycling, to enumerate just a few.

Yet the initiatives I have put forth today define two of the major themes I have exercised throughout my political career and will continue to advance in the years ahead—enhancing the innovation in our State laboratories by removing Federal restraints to reform, and wise utilization and management of our Nation’s natural resources.

The bills I submit for consideration by the Senate are the following:

I. The Local Empowerment and Flexibility Act of 1995 (Local-Flex)

Flexibility, accountability, and efficiency are qualities we, as consumers, expect from private industry. Americans expect and deserve to have those same qualities present in their government as well, whether at the Federal, State, or local level. As the Congress plans its Federal government reforms, it should use these qualities as its measures of success.

We have already witnessed some substantial, yet piecemeal addressing of these goals. This reform oriented approach is apparent in the unfunded mandate legislation and in the unmet need for a proposal to restructure and consolidate Federal agencies and programs. While these proposals have merit, I believe that rash reform decisions can lead to the omission of a reservoir of great ideas.

This reservoir of ideas is located throughout the country in our State, local, and community governments. In order to tap into this stock of ideas and innovation I am introducing the Local Empowerment and Flexibility Act of 1995. I introduced a similar bill in the 103rd Congress which was passed in the Senate by a vote of 97-0 as an amendment to the National Competitiveness Act.

The Local Empowerment and Flexibility Act of 1995 is premised on two ideas. First, Federal regulation treats all communities alike, despite their inherent differences. Local governments are eligible for hundreds of separate Federal categorical grants to provide services and implement Federal programs. To be effective those programs must recognize the differences among communities and permit variation in spending and enforcement based on local needs. Second, regulatory red tape has stifled the very resources designed to provide services and address problems. Many programs are too narrow, and this regulatory rigidity translates into funding spent wastefully in audits and record-keeping rather than directed to meet community needs.

The Local Empowerment and Flexibility Act of 1995 would establish a framework for local governments to prepare Local Flexibility Plans, including a road map for integrating Federal funds at the local level to meet local needs. The local government would identify all Federal, State, local and private resources they would use, and any Federal, State and local regulations which would need to be waived. This would enable local governments and non-profit organizations to adapt Federal funds and related programs to their local area by drawing on appropriations from more than one Federal program and integrating funds across existing Federal categories. It would enable the community in developing these “Local Flexibility Plans”. Efficiency of Federal, State, and local resources would be greatly increased.

Mr. President, at a time when the Federal Treasury is being squeezed from all sides, it is imperative that funds are allocated in the most efficient and effective manner possible. I know this legislation would assist the Federal, State, and local governments in the accomplishment of that goal.

I ask unanimous consent that the text of the bill, along with a section-by-section analysis be included in the RECORD, following my remarks.

II. The Worker Retraining Flexibility Act of 1995 (Labor Flex)

It is no secret, Mr. President, that dislocation of the labor force has been a significant issue in my State and in the entire Northwest—an area heavily impacted by the Endangered Species Act. The Northern Spotted Owl was just the tip of the iceberg in terms of transition to new employment for many of the natural resources workers in my State. In fact, we have lost over 15,000 jobs in the forest products industry in my State since the owls listing in 1990.

Most of these jobs have been in rural areas built up around saw mills which are dependent on Federal timber supply. Our State, with its growing high tech industry, has been able to cushion this blow in terms of total employment, but the rural areas dependent on Federal timber are continuing to be devastated. For example, just before Christmas in the Eastern Oregon town of Burns, with a population of 2,880, Snow Mountain Pine announced that, as of New Year’s Day, it would be permanently closing its doors on 184 workers in early 1995.

This work force reduction and others are coming as a direct result of the forest protection policies of this Administration and are more anticipated in the future. Retraining of our labor force, particularly those dislocated due to Federal policy, continues to be one of my highest priorities.

For the last 3 years I have introduced various forms of legislation in this area, including the Endangered Species Employment Transition Assistance Act and the Environmental Employment Transition Assistance Act.

The premise of these bills has been that if workers lose their jobs due to Federal regulations, the Federal government has a responsibility to see that their basic needs are met while they participate in worker retraining programs. The objective of these bills was to create a new set aside under our national retraining programs that would have provided dislocated workers easier access to needs-related payments after their 26 weeks of unemployment insurance ended so that they could complete their long-term retraining programs.

Congress has created similar set aside programs over the years for workers dislocated due to Federal environmental programs. But the sand has shifted in the last year. In 1994, the Government Accounting Office reported to me that the Federal government has an inventory of over 154 Federal vocational educational and retraining programs which, collectively, create an enormous potential for duplication of effort, raising questions concerning administrative costs at all levels of government. For this, as well as other reasons, I believe that a review and consolidation of these programs is in order. Rather than adding further to this current administrative burden, I have redrafted my legislation to improve the existing Job Training Partnership Act without creating a new program.

The Worker Retraining Flexibility Act of 1995 which I am introducing today will make three important changes to the existing JTPA statute in order to provide a great deal more flexibility in addressing the long-term needs of dislocated workers. Specifically, the bill would: remove the limitation in the statute which prohibits States from using more than 25 percent of the funds on needs-related payments and supportive services while still maintaining the 15 percent ceiling on administrative costs; modify the State waiver which permits a governor to reduce to 30 percent the requirement that not less than 50 percent of the funds be used for retraining services; and finally, permit needs-related payments to those who have enrolled in retraining programs after the sixth week of a discretionary grant award rather than after the 13th week of being laid-off. Finally, the bill will create a new discretionary reserve to the Secretary of Labor to expend the Administration’s commitment of $12 million from the discretionary reserve based on need, to provide retraining funding to dislocated workers in the Pacific Northwest.

These provisions will eliminate major impediments that dislocated workers face while participating in long-term retraining programs and will enable communities to provide both the training and income support these workers need to re-enter the work force. It is an example of retooling a traditional federal program, based on advice and counsel from a State which has been managing a great deal of JTPA funds over the past several years. Included among the provisions in the fiscal year 1995 Appropriations bill for the Department of Labor. However, these changes will only last for a single program year under the Job Training Partnership Act. I think
we will soon see the need to make these changes permanent which is why I am offering this legislation. Until we streamline and consolidate our current retraining programs, I am committed to operating them in as flexible a manner as possible so States like Oregon can better assist our dislocated workers and ensure the transition to new high skill family jobs.

I ask unanimous consent that the text of the bill, along with a letter of support from the Oregon Economic Development Department, be included in the RECORD. 

The bill, S. 88, having no objection, the material was ordered to be printed in the RECORD, as follows:

S 88  

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 "Local Empowerment and Flexibility Act of 1995".

SEC. 2. FINDINGS.  
The Congress finds that—

(1) nationally, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) the Nation's communities are diverse, and different needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient local delivery of services to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

(6) many communities have innovative planning and community involvement strategies for providing services, but Federal, State, and local regulations often hamper full implementation of local plans.

SEC. 3. PURPOSES.  
The purposes of this Act are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities by—

(A) placing fewer restrictions on the use of appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal financial assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

SEC. 4. DEFINITIONS.  
For purposes of this Act—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local, and private sources to address the service needs of a community (or any part of such a plan) that is approved by the Flexibility Council under section 6;

(2) the term "local advisory committee" means such a committee established by a local government under section 9;

(3) the term "Flexibility Council" means the council composed of the—

(A) Assistant to the President for Domestic Policy;

(B) Assistant to the President for Economic Policy;

(C) Secretary of the Treasury;

(D) Attorney General;

(E) Secretary of the Interior;

(F) Secretary of Agriculture;

(G) Secretary of Commerce;

(H) Secretary of Labor;

(I) Secretary of Health and Human Services;

(J) Secretary of Housing and Urban Development;

(K) Secretary of Transportation;

(L) Secretary of Education;

(M) Secretary of Energy;

(N) Secretary of Veterans Affairs;

(O) Secretary of Defense;

(P) Director of Federal Emergency Management Agency;

(Q) Administrator of the Environmental Protection Agency;

(R) Director of National Drug Control Policy;

(S) Administrator of the Small Business Administration;

(T) Director of the Office of Management and Budget; and

(U) Chair of the Council of Economic Advisers;

(4) the term "covered Federal financial assistance program" means an eligible Federal financial assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal financial assistance program" means a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program; and

(6) does not include a Federal program under which financial assistance is provided to a beneficiary of that financial assistance or to a State as a direct payment to an individual;

(7) the term "local government" means a government in a State that is eligible for benefits or to a qualified organization under a covered Federal financial assistance program;

(8) the term "local government" means a government in a State that is eligible for benefits or to a qualified organization under a covered Federal financial assistance program, as defined under section 9;

(9) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal financial assistance submitted by a local government having an approved local flexibility plan, by—

(A) a person located in the jurisdiction of such a government; or

(b) a qualified organization eligible for assistance under a covered Federal financial assistance program included in such a plan;

(10) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(11) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

SEC. 5. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.  
(a) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available from a local government or a qualified organization under a covered Federal financial assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(b) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal financial assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

SEC. 6. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.  
(a) IN GENERAL.—A local government may submit to the Flexibility Council in accordance with this section an application for approval of a local flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1)(A) a proposed local flexibility plan that complies with subsection (a); and

(B) a strategic plan submitted in application for designation as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986;

(2) certification by the chief executive of the local government, and such additional assurances as may be required by the Flexibility Council, that—

(A) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan; and

(3) any comments on the proposed plan submitted under subsection (a) by the Governor of the State in which the local government is located;

(4) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under section 9; and

(5) any other relevant information the Flexibility Council may require to approve the proposed plan.

(c) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this section shall include—

(1) the geographic area to which the plan applies and the rationale for defining the area;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(3)(A) specific goals and measurable performance criteria, a description of how the performance criteria, a description of how the plan is expected to attain those goals and criteria;
(A) a description of how performance shall be measured; and
(B) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs; and
(C) the local government shall submit an application for approval of the plan under this section to the Flexibility Council, the local government shall develop a local flexibility plan under this Act, the Flexibility Council considers necessary to implement the plan; and
(D) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan or part of the plan, (E) the plan and the application for approval of the plan comply with the requirements of this Act; (F) the plan or part of the plan is adequate to ensure that the plan is comprehensive and that adequate performance shall be measured; and
(G) the plan or part of the plan is adequate to ensure that the plan is comprehensive and that adequate performance shall be measured; and
(H) the local government has—(i) waived the corresponding local laws necessary for implementation of the plan; and
(ii) sought any necessary waivers from the State; (1) The Flexibility Council may not approve any part of a local flexibility plan if—(A) the plan or part of the plan is adequate to ensure that the plan is comprehensive and that adequate performance shall be measured; and
(B) the plan or part of the plan is adequate to ensure that the plan is comprehensive and that adequate performance shall be measured; and
(C) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and
(E) the data to be collected to make that determination.

SEC. 8. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.
(a) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal financial assistance program shall be paid and administered in an approved local flexibility plan under section 13. (b) WAIVER OF REQUIREMENTS.—(1) Notwithstanding any other law and subject to paragraphs (2) and (3), the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal financial assistance program included in an approved local flexibility plan, if that waiver is—(A) reasonably necessary for the implementation of the plan; and
(B) approved by a majority of members of the Flexibility Council.
(2) The Flexibility Council may not waive a requirement under this subsection unless the Council finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.
(3) The Flexibility Council may not waive any requirement under this subsection—(A) that enforces any constitutional or statutory right of an individual, including any right under—
(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
(ii) the Age Discrimination Act of 1975 (42 U.S.C. 2000e-2a et seq.);
(iii) the Age Discrimination Act of 1975 (42 U.S.C. 2000e-2a et seq.); or
(iv) the Americans with Disabilities Act of 1990.
(4) For purposes of this subsection—
(A) all requirements under covered Federal financial assistance programs that are to be waived by the Flexibility Council under section 13; and
(B) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or
(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or
(iii) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and
(E) the data to be collected to make that determination.

(d) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Flexibility Council may not condition a waiver of any requirement under this section on any of the following—(A) that the Flexibility Council may, in its discretion, waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal financial assistance program included in a local flexibility plan or on the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—
(1) impede the exchange of information needed for the design or provision of benefits under the parts; or
(2) conflict with law.
(C) for grants received on a maintenance of effort basis for approved local flexibility plans; and

(3) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to local governments or qualified organizations to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(d) EVALUATION AND TERMINATION.—(1) A local government, in accordance with regulations issued by the Flexibility Council, shall—

(A) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(B) in the evaluation of the effect of the plan on goals and performance criteria included in the plan under section 6(c)(3)

(3)(A) The Flexibility Council may terminate the effectiveness of an approved local flexibility plan if the local government, after consultation with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such plan—

(i) the goals and performance criteria included in the plan under section 6(c)(3) have not been met; and

(ii) after considering any experiences gained in implementation of the plan, that such goals and performance criteria are sound.

(B) In terminating the effectiveness of an approved local flexibility plan under this paragraph, the Flexibility Council shall allow a reasonable period of time for appropriate consultation and comment with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such plan, including—

(1) the geographic area to which the plan shall apply;

(2) the effective period of an approved local flexibility plan; and

(3) the provisions of such plan.

(e) FINAL REPORT: EXTENSION OF PLANS.—(1) No later than 45 days after the end of the effective period of an approved local flexibility plan, the local government shall submit to the Flexibility Council a report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(2) The Flexibility Council may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

SEC. 9. COMMUNITY ADVISORY COMMITTEES.

(a) ESTABLISHMENT.—A local government that submits an application for approval of a local flexibility plan under this Act shall establish a community advisory committee in accordance with this section.

(b) MEMBERS.—A community advisory committee shall advise a local government in the development and implementation of

its local flexibility plan, including advice with respect to—

(1) conducting public hearings; and

(2) reviewing and commenting on all community programs, policies, and actions under covered local flexibility plans, that affect individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(e) MEMBERSHIP.—The membership of a community advisory committee shall—

(1) consist of—

(A) persons with leadership experience in the private and voluntary sectors;

(B) local elected officials;

(C) representatives of participating qualified organizations; and

(D) the general public; and

(2) include individuals and representatives of community organizations who shall help to assure maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

SEC. 10. TECHNICAL AND OTHER ASSISTANCE.

(a) TECHNICAL ASSISTANCE.—(1) The Flexibility Council may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(2) Assistance may be provided under this subsection if a local government has established and implemented a local flexibility plan.

(b) FUNCTIONS.—The Flexibility Council shall—

(1) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this Act;

(2) upon request from an applicant for such approval, direct the head of an agency that has approved such plan to provide technical assistance under that plan to the applicant; and

(3) monitor the progress of development and implementation of local flexibility plans;

(4) perform such other functions as are assigned to the Flexibility Council by this Act; and

(5) issue regulations to implement this Act within 180 days after the date of its enactment.

SEC. 12. REPORT.

No later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans.

(2) evaluates the effectiveness of local flexibility plans;

(3) includes recommendations with respect to those plans.

SEC. 13. CONDITIONAL TERMINATION.

This Act is repealed on the date that is 5 years after the date of the enactment of this Act unless extended by the Congress through the enactment of the resolution described under section 14.

SEC. 14. J OINT RESOLUTION FOR THE CONTINUATION AND EXPANSION OF LOCAL FLEXIBILITY PROGRAMS.

(a) DESCRIPTION OF RESOLUTION.—A resolution referred to under section 13 is a joint resolution the matter after the resolving clause is as follows: "That Congress approves the application of local flexibility plans to all local governments in the United States in accordance with the local government flexibility Act of 1995 and as described under subsection (a) shall be introduced in the Senate by the chairman of the Committee on Governmental Affairs, or by a Member or Members of the Senate designated by such chairman, and shall be introduced in the House of Representatives by the Chairman of the Committee on Government Operations, or by a Member or Members of the House of Representatives designated by such chairman.

(c) REFERRA L.—A resolution as described under subsection (a) shall be referred to the Senate Committee on Governmental Affairs and the Committee on Government Operations of the House of Representatives.
Section 4 contains definitions that apply to this Act and to "Local Empowerment and Flexibility Council" which is charged with approving local flexibility plans submitted by state and local governments. This section also defines "eligible Federal financial assistance programs" as: (1) a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified nonprofit organization, as specified in the program; and (2) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a state or to a State as a direct payment to an individual.

Section 5 provides that upon approval of a local flexibility plan, Federal financial assistance which is included in the approved local flexibility plan may be provided to an approved local flexibility plan. Section 5 also states that the Flexibility Council may not waive any requirement applicable under Federal financial assistance program under the plan. The Council shall also specify the period during which the plan is effective, not to exceed the termination of this Act which is five years after enactment. This section also states that the Flexibility Council may not waive any requirement applicable under Federal financial assistance program included in the plan. The Council shall also specify the period during which the plan is effective, not to exceed the termination of this Act which is five years after enactment.

Section 6 establishes that a local flexibility plan submitted during the application for designation as an enterprise community or empowerment zone; or (2) shall include the geographic area to which the plan applies, the particular groups of individuals who shall receive services and benefits under the plan, a description of how the plan is expected to attain specific goals and measurable performance criteria, the eligible Federal financial assistance programs to be included in the plan, any Federal statutory or regulatory requirements applicable under a covered Federal financial assistance program which needs to be waived to implement the plan, a description of the sources of all non-Federal funds that are required to implement the plan, and that amounts are available from non-Federal sources to pay the non-Federal share of all eligible Federal financial assistance programs included in a local flexibility plan.

Section 6 also states that the Flexibility Council may not waive any requirement applicable under Federal financial assistance program included in the plan. The plan shall include any comments on the proposed plan submitted by the Governor of the State which applies for approval of a local flexibility plan.

Section 7 establishes the responsibilities of the Flexibility Council in reviewing applications for approval of local flexibility plans. Within 45 days of receipt of the application, the Flexibility Council shall approve or disapprove all or part of the local flexibility plan. The Council also states that the Flexibility Council may not waive any requirement applicable under Federal financial assistance program included in the plan. The plan shall include any comments on the proposed plan submitted by the Governor of the State which applies for approval of a local flexibility plan.

Section 8 requires that any funds included in a local flexibility plan be paid and administered in the manner specified in the approved local flexibility plan. This section also states that the Flexibility Council may not waive any requirement applicable under Federal financial assistance program included in the plan. The plan shall include any comments on the proposed plan submitted by the Governor of the State which applies for approval of a local flexibility plan.
Section 8 also calls for the head of each Federal department to provide technical assistance to applicants to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

Section 8 states that no later than 90 days after the end of the one year period of the approval of a local flexibility plan, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report. The Flexibility Council shall approve a local flexibility plan if it determines that the goals and performance criteria included in the plan have not been met.

Section 9. Community Advisory Committees

Section 9 establishes the composition and function of the Community Advisory Committees. The Community Advisory Committees shall advise the local government in developing local flexibility plans by conducting public hearings and reviewing and commenting on all actions under the plan. The composition of the committee shall consist of personal from the affected and voluntary sectors, local elected officials, representatives of participating organizations, and the general public.

Section 10. Technical and Other Assistance

Section 10 states that the Flexibility Council may provide or direct that the head of a Federal agency provide technical assistance to an applicant of a local flexibility plan.

Section 11. Flexibility Council

Section 11 describes the functions of the Flexibility Council. The Council shall receive, review, and approve or disapprove local flexibility plans. The Council shall also monitor the progress of development and implementation of local flexibility plans and issue regulations to implement this Act within 180 days after the date of its enactment.

No later than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the five Federal regulations that are most frequently waived by the Flexibility Council to the President and the Congress.

Section 12. Report

Section 12 states that no later than 54 months after the date of the enactment of this Act, the Governor of the State of Oregon shall submit to the Congress, a report that: (1) describe the extent to which local governments have established and improved local flexibility plans; and (2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and (3) includes recommendations with respect to local flexibility.

Section 13. Conditional Termination

Section 13 repeals this Act five years after the date of the enactment unless it is extended by Congress through the enactment of the resolution described in section 14.

Section 14. Joint Resolution for the Continuation and Expansion of Local Flexibility Programs

Section 14 describes the resolution that shall be introduced 30 days after the Comptroller General's report is submitted which is 54 months after enactment of this Act. The resolution would continue this Act as if section 13 of the Act had been repealed.

THE OREGON OPTION

Mr. HATFIELD. Mr. President, recently the State of Oregon and several federal agencies signed a unique memorandum of understanding to create a new partnership designed to deliver government services in a better and more efficient manner. When this reorganization partnership, called the Oregon Option, is fully implemented, Federal grants or transfers to State and local governments in Oregon will be based on results rather than compliance with regulatory procedures. Because of the potential to vastly improve the delivery of government services in my state and may well prove to be a national model for future partnerships between state and federal agencies, I am today introducing a sense of the Senate resolution on the importance of this governmental partnership in this effort.

As we all know, a great deal of time and energy is spent by our local and State agencies trying to comply with regulations set forth by all levels of government. Billions of dollars are spent on compliance rather than on providing better services to improve people's lives. The new partnership set forth in the Oregon Option will dramatically streamline and coordinate Federal assistance programs so that local and State governments can respond to specific problems flexibly. This flexibility will be exchanged for a transformed measurement of accountability progress towards meeting performance goals.

In 1991, the Oregon legislature endorsed various performance goals which had been developed over several years and have become known as the Oregon Benchmarks. Benchmarks do not measure progress by such standards as the number of programs created, money expended or people served, rather, Oregon's benchmarks focus on the outcomes and goals in literally dozens of specific areas. For example, one benchmark is to increase the immunization rate for 2-year-olds in Oregon from 47 percent in 1992 to 100 percent by the year 2000. Our state agencies are judged on their ability to move towards this goal and their budget submissions reflect targeting towards this as one of the Oregon's benchmarks identified as a state priority.

Under the Oregon Option, Federal departments will coordinate and streamline the Administration of their programs, develop an expedited waiver process with a single point of application and response, support state and local efforts to measure outcomes, provide technical assistance and develop a data system necessary to assess progress toward benchmarks. The State's role will be to deliver Federal, State, and local services in a coordinated way, in tandem with local governments. Services will be delivered at the local level, and progress towards achieving the benchmarks will be measured locally.

The initial work of the Oregon Option will focus on three clusters of human investment benchmarks: family stability, early childhood development, and workforce preparation. Immediate focuses will be reducing childhood poverty, improving access to prenatal care and increasing employment and employability of Oregonians through a statewide community based model.

The Oregon Option builds on the strengths of Federal, State, and local government. The Federal Government plays an important role in setting national goals and protecting our Nation's most needy people. However, States and local governments, I believe, are better at knowing how to develop programs to meet these goals that fit their local situation. By using policy goals and shifting success from compliance to results, the Oregon Option creates a critical balance between protecting the intent and goals of Federal policy and allowing States the freedom and flexibility to find appropriate solutions to their own community problems.

My resolution is a simple endorsement of this project, for I believe it has the potential to redefine how the federal government interacts with the states. I urge my colleagues to become familiar with this model.

I ask unanimous consent that the text of the bill, as well as the memorandum of understanding and letters of support, be included in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 90

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 Worker Retraining and Flexibility Act of 1995.

SEC. 2. RETRAINING SERVICES.

Section 315(a)(2) of the Job Training Partnership Act (29 U.S.C. 166d(a)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by striking the last 2 sentences and inserting the following new subparagraph:

"(ii) The Governor may grant the waiver, in whole or in part, if the substate grantee demonstrates that the waiver—

"(I) is appropriate due to the availability of long-term training; or

"(II) is necessary to facilitate the provision of needs-related payments to accompany long-term training; or

"(III) is necessary to facilitate the provision of appropriate basic readjustment services."

"(III) The Governor shall prescribe criteria for the demonstration required by clause (ii)."

SEC. 3. NEEDS-RELATED PAYMENTS AND OTHER SUPPORTIVE SERVICES.

Section 315 of the Job Training Partnership Act (29 U.S.C. 166d) is amended—

"(e) NEEDS-RELATED PAYMENTS.—In making funds available from the amounts referred to in this section for a good reason set forth in subsection (d)(2) to carry out programs and activities, the Secretary may fund activities for needs-related payments described in section 314(e)."

SEC. 4. NEEDS-RELATED PAYMENTS FOR FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES.

Section 323 of the Job Training Partnership Act (29 U.S.C. 166b) is amended by adding at the end the following new subsection:

"(e) NEEDS-RELATED PAYMENTS.—In making funds available from the amounts referred to in this section for a good reason set forth in subsection (d)(2) to carry out programs and activities, the Secretary may fund activities for needs-related payments described in section 314(e)."
The Secretary may make such a payment to a participant in such a program or activity who, in lieu of meeting the requirements relating to enrollment in training specified in the last sentence of section 314(e)(1), is enrolled in training by the end of the sixth week after the Secretary makes the funds available for the program or activity.

SEC. 5. NORTHWEST ECONOMIC ADJUSTMENT INITIATIVE

Section 323 of the Job Training Partnership Act (29 U.S.C. 166b) (as amended by section 4) is further amended by adding at the end the following:

"(f) NORTHWEST ECONOMIC ADJUSTMENT INITIATIVE.—From the amount reserved for this part under section 323(a)(2) for each of fiscal years 1994 through 1998, the Secretary shall appropriate, on the basis of need as demonstrated by a State, not less than $12,000,000 to carry out the retraining or other assistance for dislocated workers, as using the term in the "Memorandum of Understanding for Economic Adjustment and Community Assistance (relating to the Northwest Economic Adjustment Initiative)".


Senator Mark O. Hatfield, U.S. Sen., Washington, D.C.


Dear Senator Hatfield: It is my great pleasure to introduce the Worker Retraining Flexibility Act of 1995 which you will introduce on January 4, 1995. This legislation places the focus where it needs to be—on the dislocated worker. Too often the constraints in Federal laws and regulations hamper our ability to concentrate efforts on the person rather than on administrative requirements.

When the objective becomes the amount of funds expended for retraining as opposed to the type of service that is needed, then we must ask if we are pursuing the right purpose. Amendments to Title III of the Job Training Partnership Act will allow State and local programs to concentrate on providing the right mix of retraining and readjustment services that are indicated through individual assessment.

We have found that providing services to dislocated workers requires the ability to quickly respond to a variety of factors, e.g., timing of dislocation, the economic environment, etc. This bill goes a long way toward building flexibility into the law and freeing the necessary for the dislocated worker to succeed in reentering the workforce.

Thank you, Senator Hatfield, for your continuing interest and concern for the citizens of Oregon, in particular for those who have suffered the loss of their jobs through no fault of their own.

Sincerely,

Bill Easley
Program Manager, Job Training Partnership Act Administration; ODED
THE BONNEVILLE POWER ADMINISTRATION
APPROPRIATIONS REFINANCING ACT OF 1995

Mr. HATFIELD. Mr. President, today I am introducing legislation which will end the decade-long battle to increase the electric power rates of the Bonneville Power Administration (BPA) in the Pacific Northwest. This legislation is a realistic, sensible, achievable, and scoreable deficit reduction alternative to the recently discussed absurdity of selling the Bonneville Power Administration.

The legislation will resolve, once and for all, the perception by some that electric rates in the Pacific Northwest are subsidized by the Federal Government, and will discourage future proposals to raise electric rates to levels which would injure the region’s economy.

The legislation is comprised of two primary elements: First, it provides for the repayment of approximately $6.7 billion of Bonneville’s low interest, appropriated debt, and replaces it with new debt that carries current market interest rates. Second, it provides an additional $100 million to the Federal Treasury, which will be paid by BPA from its electrical customers.

In return for this arrangement, the Northwest’s electrical ratepayers seek a permanent guarantee that the costs of repaying the Federal investment in the Columbia River hydroelectric system will not be altered further in the future. This is a proposal which is fair to both taxpayers and ratepayers and should be considered favorably by the Senate.

This legislation has its roots in a decade of proposals made by successive administrations to alter the repayment of the Federal investment in the nation’s hydroelectric system. As budget deficits grew, a cash-starved Federal Government sought sources of revenue generation to produce more dollars. The power marketing administrations, which produce large sums of annual revenues, became easy targets for those who look only at the bottom line. Little or no consideration was given to the impacts on local economies or the overall impact on Federal revenues.

As each of these proposals was made, uncertainty over the future cost of electricity was created. In the Pacific Northwest, where over half the electric power consumed is marketed by the Bonneville Power Administration, these proposals cast a cloud of uncertainty over future electric power prices. Rate increases of the magnitude contemplated by some proposals would devastate the economy of the region by discouraging investment in infrastructure, including modernization of new plants and equipment, and close factories and businesses which operate on the margin, many of which were attracted to the availability of low cost hydroelectric power in the region.

I have vigorously opposed each and every one of these proposals over the years, and believe that they were, at best, misguided, if not hypocritical. Water projects throughout this country have been built with no expectation of payback by the users of the facilities. Unlike these other situations, however, in the case of hydroelectric generation, the use of all payments goes to the investment, with interest, based on the terms agreed to at the time the investment was made. Accordingly, there is no subsidy associated with the federal power marketing program. This situation is only complicated by a home mortgage. Attempting to alter unilaterally the terms of these financial arrangements years after the investment was made, based on current financial conditions, is preposterous and unfair.

Mr. President, this is politics and not business. The lure of short-term fixes to generate cash during periods of huge budget deficits will not vanish in the night. It is time, therefore, to resolve this matter and put it behind us.

A significant opportunity to ensure the stability of BPA occurred with the release of Vice-President Gore’s “National Performance Review” (NPR). To the Vice President’s credit, the Department of Energy and others in the administration recommended a farsighted and realistic approach to repayment reform could be formulated. The NPR took the dramatic step of recommending the BPA debt refinancing proposal originally identified in the study developed by Bonneville and its customers. The NPR, however, also included a $100 million premium as an additional cost the BPA ratepayers would be required to pay—over and above the annual principal and interest payments on the appropriated debt.

While this premium is distasteful, it will, over the long-term, benefit the Pacific Northwest ratepayers, and is a price worth paying. In my opinion, however, the $100 million price tag is analogous to the costs a business might experience when settling litigation. But, this transfer of wealth from Pacific Northwest ratepayers to U.S. taxpayers is supportable only if it is accompanied by a long-term guarantee that there will be no future increases in the cost of repaying the federal investment in the Northwest hydroelectric system. The NPR initiative included such a guarantee.

Let me take a moment to describe the specifics of the proposal I am introducing today. The legislation will require that BPA’s outstanding repayment obligations be reconstituted by re-setting outstanding principal at the present value of the current principal and annual interest that BPA would owe to the Federal Treasury, plus $100 million. Enactment of the bill will represent agreement between Northwest ratepayers and the U.S. Government that the subsidy criticisms are resolved permanently.

Interest rates on the new principal will be reassigned by using the Treasury Department’s yield curve calculation. Interest rates on new payments will be financed by appropriations, which are now administratively set equivalent to long-term Treasury financing costs, will be required by law.

The legislation also proposes that certain credits be granted to BPA’s cash transfers to the Treasury in connection with payments BPA will make under the recently enacted Confederated Tribes of the Colville Reservation Grand Coulee Settlement Act of 1994 (United States and the Confederated Tribes of the Colville Reservation have settled

The legislation also proposes that certain credits be granted to BPA’s cash transfers to the Treasury in connection with payments BPA will make under the recently enacted Confederated Tribes of the Colville Reservation Grand Coulee Settlement Act of 1994 (United States and the Confederated Tribes of the Colville Reservation have settled
and rates are to assure the repayment of the project or facility, placed in service after September 30, 1995; and

(4) `capital investment' means a capital investment whose capitalized cost is the sum of:

(A) on the repayment date the Administrator shall offer to include, or assign an interest rate before October 1, 1993, to the old capital investment, or

(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature placed in service in the period following the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and repayment date for the new capital investment.

SEC. 3. NEW PRINCIPAL AMOUNTS.

(a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $300,000,000 multiplied by a fraction whose numerator is the sum of the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all capital investments.

(b) With the approval of the Secretary of the Treasury, the annual interest and principal that the Administrator would have paid to the United States Treasury for the new capital investment if this Act were not enacted, assuming that—

(A) the principal were repaid—

(a) for the old capital investment the Administrator assigned before October 1, 1993, to the old capital investment, or

(b) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 103(b) of the version of Department of Energy Order RA 620.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(b) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and repayment date for the new capital investment.

(2) accrued interest during construction.

(3) interest were paid—

(a) for the purposes of this section, `one-year rate' for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year and by the United States with periods to maturity comparable to the period between the beginning of the fiscal year and repayment date for the new capital investment.

(2) accrued interest during construction.

(3) interest were paid—

(a) for the purposes of this section—

(1) `Settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1976, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181-D of the Indian Claims Commission, which claim is transferred to the United States Court of Federal Claims; and

(2) `Tribes' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian Tribe.

SEC. 10. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to
include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 3 of this Act;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 4 of this Act;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 3 of this Act and to pay the interest on the principal amount under section 4 of this Act, no amount may be paid to the President of the Senate, the Secretary of the Senate, or the Clerk of the Senate or to the President of the House, the Sergeant at Arms, or the Clerk of the House or to the United States Treasury as repayment for or in payment of outstanding appropriation repayment obligations, BPA establishes rates to repay the Federal obligations, BPA establishes rates to repay the outstanding appropriated investments in the Bonneville Power Administration Appropriations Refinancing Act Section-by-Section Analysis.

SEC. 11. SAVINGS PROVISIONS.

(a) This Act does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to repay interest on the capital invested, nor does it affect the right of the Secretary to determine the principal amount of the capital invested, or the rate on which it was paid, or the rate on which it is paid, or the amount of the payment at the time the payment is tendered, or the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment.

(b) Except as provided in section 6 of this Act, this Act does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.


Hon. Al Gore,
President of the Senate
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the "Bonneville Power Administration Appropriations Refinancing Act."

The purpose of this legislation is to provide a minimum $100 million increase in the present value of Bonneville's debt service payments to the United States Treasury on time and in full. The legislation accomplishes this purpose by resetting the principal of BPA's outstanding debt obligations to $100 million in the period 1996 through fiscal year 1998. This is an increase of approximately $4 million per year. These appropriations, together with the one-time judgment Fund payment, represent an equitable allocation of the costs of the settlement between Bonneville ratepayers and Federal taxpayers.

The Administration recently submitted Colville Settlement legislation that contains reciprocal credit provisions, in the form of an appropriation that is in the legislation being forwarded here. The appropriations in section 3 of the Bonneville Power Administration Appropriations Refinancing Act supersede those in the Administration's Colville Settlement legislative proposal. The Administration is open to the negotiating processes in the legislative process. By the same token, because the same results associated with implementing the settlement agreement are achieved with respect to the Tribes, the Treasury, and the rate payers, we are comfortable with proceeding with the Colville debt repayment concept at this time and then enacting the Bonneville Power Administration Appropriations Refinancing Act subsequently.

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through fiscal year 1998. That is, no revenue and direct spending bill should result in an increase in the deficit, and if it does, it will trigger a sequester if it is not fully offset. The provisions of this legislation taken together would decrease net Federal outlays by approximately $45 million over fiscal year 1996 through fiscal year 1998.

The Office of Management and Budget advises that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,
HAZEL R. O'LEARY.

Enclosure.

BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING ACT SECTION-BY-SECTION ANALYSIS.

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission service to many federal and nonfederal power projects. In addition to its power transmission service to other clients, BPA establishes schedules of rates to repay the outstanding appropriation repayment obligations, BPA establishes rates to repay the Federal taxpayers' investments in these hydroelectric projects through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed at the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. The purpose of this legislation is to provide a minimum $100 million increase in the present value of Bonneville's debt service payments to the United States Treasury on time and in full. The legislation also proposes that certain appropriations be provided to Bonneville in connection with payments Bonneville would make under a proposed litigation settlement regarding the Tribes, the Secretary of the Senate, or the Clerk of the Senate or the President of the Senate, the Secretary of the Senate, or the Clerk of the Senate or the United States Treasury as repayment for or in payment of outstanding appropriation repayment obligations, BPA establishes rates to repay the outstanding appropriated investments. The purpose of this legislation is to provide a minimum $100 million increase in the present value of Bonneville's debt service payments to the United States Treasury.
the rates BPA charges its ratepayers. It also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation improves the credibility of BPA to maintain its current rate structure. To maintain BPA to its current rate structure, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and the discount rates to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $45 million over the current budget window.

SECTION 1. SHORT TITLE

This section sets the short title of this Act as the "Bonneville Power Administration Appropriations Refinancing Act.

SECTION 2. DEFINITIONS

This section contains definitions that apply to this Act. Paragraph (1) is self-explanatory. Paragraph (2) clarifies the repayment obligations to be affected under this Act by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid to the U.S. Treasury through the sale of electric power, transmission or other services, and, investments financed either by BPA current revenues or by bonds issued and sold, all of which are issued and sold under section 13 of the Federal Columbia River Transmission System Act. Paragraph (3) defines new capital investments as investments that are placed in service after September 30, 1995. Paragraph (4) defines those capital investments whose principal amounts are reset by this Act. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable unit or feature was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments that are placed in service after September 30, 1995. The term "capital investments" is defined in section 2(2).

Paragraph (5) defines "repayment date" as the date that the Administrator determines to establish rates to repay the principal amount of a capital investment. Paragraph (6) defines the term "Treasury rate" as the rate established by the Secretary to repay the principal amounts of the old capital investments. The term Treasury rate is calculated as the sum of the interest rate and a discount rate assigned to each old capital investment. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.

The discount period for a principal amount begins on the date the amount is associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the date the interest payment is due. The repayment date for purposes making the present value calculation is already assigned to almost all of the old capital investments. For old capital investments that were placed in service after October 1, 1993 but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2--"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term "old payment amounts.

The interest portion of the old payment amounts is determined on the basis that the responsible for determining the interest rate and the discount rate assigned to each old capital investment. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.
The approval by the Secretary of the Treasury will be completed as soon as practicable after the data on the new principal amount and the interest rates are provided by the Administrator. It is expected that the approval by the Secretary will not require substantial time.

Section 4. Interest rates for new principal investments

Section 4 provides that the unpaid balance of each new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury, at the rate of 1 percent per annum, until the principal is repaid or the repayment date for the investment.

Section 5. Repayment dates

Section 5, in conjunction with the term “repayment date” as that term is defined in section 25, provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date in making the present value calculations in section 25. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 5 confirms that the Administrator is obligated to make this determination notwithstanding the enactment of this Act.

Section 6. Prepayment limitations

Section 6 places a cap on the Administrator’s authority to prepay the new principal amounts of old capital investments. During the period through September 30, 2000, the Administrator may prepay the new principal amounts of old capital investments before their respective repayment dates provided that the prepayment is available to the United States Treasury at the end of the period without exceeding $100,000,000.

Section 7. Interest rates for new capital investments during construction

Section 7 establishes a statutory key element of the repayment practices relating to new capital investments. Section 7 provides that the interest rates for determining the interest during construction of these facilities. For each fiscal year, the Administrator must determine the interest rate for a fiscal year equal to the sum of (a) the cumulative construction expenditures made from the beginning of the fiscal year through the end of the fiscal year for construction that has accrued prior to the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the beginning of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury taking into consideration the prevailing market yields and the obligations of the United States with periods to maturity of approximately one year.

This method of calculating interest during construction equates to common construction financing practice. In this practice, construction is funded by a rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility. Accordingly, section 7 provides that amounts for interest during construction shall be included in the principal amount of the associated capital investment. Thus, the Administrator’s obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

Section 8. Interest rates for new capital investments

Section 8 establishes in statute an important component of BPA’s repayment practice, that is, for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates based on applicable investments to a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, section 8 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit or feature of a project or facility, provided it is in service after September 30, is that rate that accurately reflects the repayment period for the capital investment and interest rates at the time the Treasury rate is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in section 26(B). Each of these investments would bear interest at the rate as designated until the earlier of the date it is repaid or the end of its repayment period.

Section 9. Appropriated amounts

Pursuant to the settlement agreement with the Tribes, the Administrator is obligated to pay amounts to the Tribes so long as Grand Coulee Dam produces electric power. Section 9 appropriates certain amounts to the Administrator. (The definitions of Tribes and Settlement Agreements are found in paragraph (b) of section 9). In effect, the appropriations specifically offset the Bonneville rate impact of the annual payments by the Administrator to the Tribes under the settlement agreement. Thus, the taxpayer, through the appropriated amounts under section 9, are amounts that are to be paid from the judgment fund to the Tribes under the settlement agreement, and Bonneville’s ratepayers, through the Administrator’s obligation to pay the amounts under the settlement agreement, each bear an equitable share of the costs of the settlement.

Although the amounts appropriated to the Administrator in section 9 are made in connection with the settlement agreement, the Administrator may obligate against these amounts for any authorized purpose of the Administrator. In addition, these amounts are made available without fiscal year limitation, and any amounts that remain available to the Administrator until expended. In this manner, the amounts appropriated under section 9 are equivalent to the other amounts of Bonneville’s Bonneville fund and constitute an “appropriation by Congress for the fund” within the meaning of section 11a(3) of the Federal Columbia River Transmission System Act (16 U.S.C.S. 838(a)(3)).

Section 10. Contract provisions

Section 10 is intended to capture in contract the purpose of this legislation to permanently resolve disputes relating to the repayment obligations of BPA’s customers associated with an old capital investment. With regard to such investments, paragraph (1) of section 10 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to BPA capital investments other than the interest payments or principal repayments authorized by this Act. Paragraph (2) of section 10 also requires that the Administrator, among other things, notify the Administrator of the payment obligations of BPA’s customers associated with an old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision ensures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Section 11. Savings provisions

Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator’s new principal.

Subsection (b) confirms that the Administrator may repay all or a portion of the principal amount of an old capital investment before the end of its repayment period, except as limited by section 6 of this Act.

The Ecosystem Management Act of 1995

Mr. HATFIELD, Mr. President, the last proposal I will introduce today relates to the ecosystem management
and watershed protection. These are the ‘buzz words’ for a new generation of land management philosophies and techniques. A number of federal and management agencies are now working to implement ecosystem management on a landscape levels, including the Bureau of Land Management, the Forest Service and the Bureau of Reclamation.

In 1992 the BLM released its Resource Management Plans for Western Oregon which developed the first comprehensive strategy for management of forest ecosystems and watersheds in the nation. Since that time, the Forest Service and the Department joined in the act with the development of the Forest Ecosystem Management Assessment Team report, better known as Option 9, for the forest ecosystems of the Pacific Northwest. In addition, Interior is continually working on ecosystem management plans for other areas of the nation, such as the Florida Everglades and the area inhabited by the Southern California gnatcatcher.

While this work is admirable and perhaps necessary in the evolution of land management, it is great concern and concern still surrounds this method of managing our water, air, land and fish and wildlife resources on a comprehensive scale. As keepers of the taxpayers’ purse strings, Congress is required to provide the funding to allow the agencies to engage in this type of management.

Unfortunately, we as legislators and appropriators understand little about this new and innovative land management technique. Each federal government agency, state agency, interest group and Congress-person has his or her own idea of what ecosystem management means for the people and ecology of their particular state or region. As appropriators, we are required to fund land management actions with little more than faith that the agencies’ recommendations are based on sound science and a firm understanding of the needs of ecosystems and the people who live there.

Numerous additional questions surround not only the integrity but the functionality of the ecosystem management boat we have already launched. For example, what is ecosystem management, how should it be implemented and who should be implementing it? How does the ecosystem oriented work of the federal agencies, states, municipalities, counties, and interest groups mesh? And is the existing structure of our government agencies adequate to the requirements of managing land across which state and county lines have been drawn? Finally, with a decreasing resource production receipt base, how shall we pay for ecosystem management? Direct federal appropriations? Consolidation of federal and private funding? And if we determine how to pay for ecosystem management, who coordinates collection of these funds and how are they distributed?

I do not disagree with the theory that holistic, coordinated management of our natural resources is necessary. On the contrary, I and many of my Senate colleagues are prepared to move in that direction. It makes eminent sense to manage resources by the natural evolution of river basins and watersheds rather than according to the artificial boundaries established by counties, states and nations. Nevertheless, as our nation’s funding resources become more scarce and our government agencies, states, localities and private interest groups seek to coordinate their ecosystem restoration efforts, Congress and the Executive Branch need to avail themselves of the best information in order to make educated, informed decisions about how ecosystem management will affect our nation’s people, environment and federal budget.

To help answer these questions, I am introducing legislation today to create an Ecosystem Management Study Commission. This bipartisan Commission will include the Chairman and Ranking Minority members of the following Senate committees: Energy and Natural Resources; Appropriations; Interior and Related Agencies; Sub-committee of Appropriations; and the Public Lands, Forests and Parks Subcommittee of Appropriations; and the Public Lands, Forests and Parks Committee. The Senate colleagues are prepared to move in that direction. It makes eminent sense to manage resources by the natural evolution of river basins and watersheds rather than according to the artificial boundaries established by counties, states and nations. Nevertheless, as our nation’s funding resources become more scarce and our government agencies, states, localities and private interest groups seek to coordinate their ecosystem restoration efforts, Congress and the Executive Branch need to avail themselves of the best information in order to make educated, informed decisions about how ecosystem management will affect our nation’s people, environment and federal budget.

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The Commission will submit a report to Congress 1 year after enactment which: Defines ecosystem management; identifies constraints and opportunities for coordinated ecosystem planning; examines existing laws and Federal agency budgets to determine whether any changes are necessary to implement true, on-the-ground ecosystem management; identifies incentives, such as trust funds, to encourage parties to engage in the development of ecosystem management strategies; and identifies, through case studies representing different regions of the United States, opportunities for and constraints on ecosystem management.

To assist the Ecosystem Study Commission with its report, a 13-member Advisory Committee will be appointed by the Secretary of the Interior, and would include 2 tribal nominees, 3 nominees from the Western Governors Association, 2 members of conservation groups, 2 members from industry, 2 members from professional societies familiar with ecosystem management, and 2 members of the legal community. I expect this Commission and its Advisory Committee to build the base of knowledge and data surrounding ecosystem management that we in Congress so desperately need in order to make educated, informed decisions on legislative and funding issues relating to ecosystem management. At the very least, this exercise will bring people and groups together who often find themselves in adversarial positions on natural resource management issues, much as the Northwest Salmon Summit did back in 1990 with environmental, State, and industry interests.

It is time to look beyond the polarized positions of “economic growth” and “environmental protection” which crippled our land management planning and implementation in recent years. Instead we must work toward the creation of cooperative, regionally-based, incentive-driven planning for the management of our water, air, land and fish and wildlife resources in perpetuity.

The quest for ecosystem management becomes even more urgent as we realize that the world’s population will double from 5.5 to 11 billion people over the next 40 years, and the resources to support those people will come under increasing demand, especially as they become more scarce. We have learned since childhood that food, water, shelter, and clothing are basic to human survival on this planet. Equally important is a clean environment, healthy ecosystems and an understanding of their interdependence and integrated nature. This knowledge is crucial for the de-polarization of our current land management framework and to the re-empowerment of our citizens with the task of preserving the health and welfare of the river basins and watersheds in which the future generations of their families will live and work.

I urge my colleagues to join me in paving the way for a greater understanding of ecosystems, their dependent parts and the tools necessary to implement true, on-the-ground ecosystem management for the good of both our human and our natural resources. I am not wedded to this particular approach of accomplishing a greater understanding of ecosystems. My purpose in introducing this legislation today is to underscore the importance of this issue and to foster much needed debate in relation to it. I look forward to working with my colleagues here in Congress, the Administration, and private groups on constructive proposals to enhance our understanding of ecosystem management.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

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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 “Ecosystem Management Act of 1996”.

SEC. 2. ECO SYSTEM MANAGEMENT.

(a) DEFINITIONS.—Section 108 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702) is amended by adding at the end the following new subsections: “(q) The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized
Chairman) and the Ranking Minority Member of the Senate:  

Chairman) and the Ranking Minority Member of the Subcommittee on Public Land, National Parks and Forests.

Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommission on National Parks, Forests, and Public Lands.

Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommission on the Head of the Commission or other regional entity.

Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommission.

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Mr. HATFIELD. Finally Mr. President, I would like to take this opportunity to remind my colleagues of where we ended the 103d Congress—on the road to nowhere—health care. At the end of last session, when it became apparent that comprehensive health care reform would not pass, I joined my colleague Senator GRAHAM of Florida in introducing a health care reform proposal with a different approach—the Health Innovation Partnership Act. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to federalism.

The purpose of this bill is to give States incentives to innovate in the area of health care by simplifying and expediting the waiver process and providing limited Federal funding to assist them in meeting three Federal goals: (1) expanding access, controlling costs, and maintaining quality health care.

I mention this today because I see the Health Innovation Partnership Act as the cornerstone of my flexibility agenda and I intend to join Senator GRAHAM in introducing this bill again by the end of the month. Also included within this bill is another of my major priorities which I will reintroduce—the national fund for health research. With the focus now on other issues, the problems of our health care system have fallen from attention. However, the problems have not gone away. Now more than ever, it is critical for us to lift the roadblocks to State reform and allow States to continue to build the database for appropriate national reform. I will continue to push for reform at every possible opportunity.

Mr. President, let me close my remarks with simple note—anything worth achieving is worth working for. Meaningful policy change is difficult and yet, once accomplished, well worth every ounce of effort. The Congress will nurture the best approaches to addressing the many policy challenges which face our country. I come from a State with a long tradition of involving its citizens in their Government—as long as I continue to stand as their representative. I will do all that I can to ensure that this Congress is one of the most productive in history.

And that is building from the people up rather than trying to impose the will of Congress and the Federal Government down on the people.

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

S. 96. A bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Labor and Human Resources.
Mr. HATCH. Mr. President, as we begin the 103rd Congress I feel it is imperative that we complete the process of approving the Traumatic Brain Injury Act, S. 725 during the previous Congress. I regret that we were unable to pass this important legislation in the 103rd Congress. I have the pleasure of reintroducing this legislation at the request of the Senator KENNEDY. Our colleague Representative GREENWOOD is introducing a companion measure on the House side today.

Sustaining a traumatic brain injury can be both catastrophic and devastating. The costs and morbidity costs to the individual, family, and community are enormous. Traumatic brain injury is the leading cause of death and disability among Americans under the age of 35. In the State of Utah, for example, the mean affected age is 28, which often is the beginning of an individual’s maximum productivity.

There are 8 million Americans who currently suffer form traumatic brain injuries with an annual incidence rate of over 2 million. Over 500,000 individuals sustain an injury for which they suffer irreversible, debilitating life-long impairments. The statistics are even more revealing when you consider that every 15 seconds someone receives a head injury in the U.S.; every 5 minutes, one of these people will die and another will be left permanently disabled. Of those who survive, each year, approximately 70,000 to 90,000 will endure lifelong debilitating loss of function. An additional 2,000 will exist in a persistent vegetative state.

With the passage of the Traumatic Brain Injury Act will come the authorization for research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of traumatic brain injury and improve the long-term outcome.

This measure will authorize the Centers for Disease Control and Prevention to conduct projects to reduce the incidence of traumatic brain injury.

It will provide matching grants to the states through the Health Resources and Services Administration for demonstration projects to improve access to health and other services regarding traumatic brain injury.

The bill will provide for an HHS study evaluating the number of factors relating to traumatic brain injury and for a national consensus conference on traumatic brain injury.

Additionally, the bill will address the causes, consequences, and costs of the sequelae for traumatic brain injury. A comprehensive, uniform, reporting system to be developed for head injuries caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300u-6) is amended—

(a) in subsection (d)—

(1) in paragraph (3), by striking the period at the end; and

(2) in paragraph (4), by adding at the end the following:

``(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of healing for acute, subacute and later phases of care;

(B) the development, modification and evaluation of therapies that retard, prevent or treat brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate research on long-term outcome evaluation with acute care research; and

(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training.''; and

(b) in subsection (h), by adding at the end the following paragraph:

``(4) The term `traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.''.

SEC. 3. PROGRAMS OF THE NATIONAL INSTITUTES OF HEALTH.

Section 307 of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 307G the following:

``PREVENTION OF TRAUMATIC BRAIN INJURY

SEC. 307G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

SEC. 4. PROGRAMS OF THE NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300u-6) is amended—

(a) by adding at the end the following section:

``(1) in subsection (d)—

(1) in subsection (d)''.
SEC. 3. PROGRAMS OF HEALTH RESOURCES AND ADMINISTRATION

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) In General.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to the States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) Advisory Board.—

"(1) In general.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board to coordinate health care for individuals with traumatic brain injury and to the families of such individuals.

"(2) Functions.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) Composition.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the State agency involved in the provision of health care for individuals with traumatic brain injury;

"(ii) the State agency involved in the provision of other health care for individuals with traumatic brain injury, including State and local health departments;

"(iii) other disability advisory or planning groups within the State;

"(iv) representatives of organizations or foundations representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist;

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) Matching Funds.—

"(1) In general.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such section only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) Determination of Amount Contributed.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) Application for Grant.—The Secretary may make a grant under this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) Coordination of Activities.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) Report.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) Definition.—For purposes of this section, the term ‘traumatic brain injury’ means an injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include conditions that result from brain injuries due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"SEC. 4. STUDY; CONSENSUS CONFERENCE.

"(a) Study.—

"(1) In general.—The Secretary of Health and Human Services shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

"(I) In collaboration with appropriate State and local health-related agencies—

"(A) determine the incidence and prevalence of traumatic brain injury; and

"(B) develop a uniform reporting system for the collection of such information.

"(2) Dates certain for reports.—

"(A) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, the Senate Committee on Labor and Human Resources, and the Committees on Appropriations of the House of Representatives and the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

"(B) Within 3 years after the date of the enactment of this Act, the Secretary shall submit to the Senate Labor and Human Resources Committee a report describing the findings made as a result of carrying out paragraph (1)(B).

"(B) Consensus Conference.—The Secretary, acting through the Director of the National Institute for Occupational Safety and Health, shall conduct a national consensus conference on the management of traumatic brain injury and related rehabilitation concerns.

"(c) Definition.—For purposes of this section, the term ‘traumatic brain injury’ means an injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include conditions that result from brain injuries due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

"SEC. 6. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) In General.—The Secretary may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) Advisory Board.—

"(1) In General.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board to coordinate health care for individuals with traumatic brain injury, and to the families of such individuals.

"(2) Functions.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) Composition.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the State agency involved in the provision of health care for individuals with traumatic brain injury;

"(ii) the State agency involved in the provision of other health care for individuals with traumatic brain injury, including State and local health departments;

"(iii) other disability advisory or planning groups within the State;

"(iv) representatives of organizations or foundations representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist;

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) Matching Funds.—

"(1) In General.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such section only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) Determination of Amount Contributed.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) Application for Grant.—The Secretary may make a grant under this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) Coordination of Activities.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) Report.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) Definition.—For purposes of this section, the term ‘traumatic brain injury’ means an injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include conditions that result from brain injuries due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

"SEC. 8. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) In General.—The Secretary may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) Advisory Board.—

"(1) In General.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board to coordinate health care for individuals with traumatic brain injury, and to the families of such individuals.

"(2) Functions.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

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"(A) representatives of—

"(i) the State agency involved in the provision of health care for individuals with traumatic brain injury;

"(ii) the State agency involved in the provision of other health care for individuals with traumatic brain injury, including State and local health departments;

"(iii) other disability advisory or planning groups within the State;

"(iv) representatives of organizations or foundations representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist;

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) Matching Funds.—

"(1) In General.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such section only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) Determination of Amount Contributed.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) Application for Grant.—The Secretary may make a grant under this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) Coordination of Activities.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) Report.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) Definition.—For purposes of this section, the term ‘traumatic brain injury’ means an injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include conditions that result from brain injuries due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.
By Mr. BRADLEY (for himself, Mr. DASCHLE and Mr. KERRY):
S. 98. A bill to amend the Congressional Budget Act of 1974 to establish a process to identify and control tax expenditures; to the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

TAX EXPENDITURE AND LEGISLATIVE APPROPRIATIONS LINE-ITEM VETO ACT

Mr. BRADLEY. Mr. President, today, on the first day the Senate is convened, I have introduced the Tax Expenditure and Legislative Appropriations Line-Item Veto Act of 1995.

The short explanation of what I am proposing is that the Congress this year enact a line-item veto. Last Congress, I introduced the same bill. We got 53 votes on the floor of the U.S. Senate at that time. It was the highest number of votes ever for a line-item veto. We were in a parliamentary situation, where we needed 60 votes, so it did not pass.

Today, I am reintroducing the same piece of legislation in hopes that the Congress will pass the line-item veto this year.

Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities.

Both the Congress and the White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit the fortunate few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line-item veto.

This legislation, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line-item veto spending in both appropriations and tax bills. Any line-item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line-item veto when I initially joined the Senate, I watched for 12 years as the deficit quintupled, shameless pork-barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Therefore, in 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line-item veto bills that are in existence, we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from the rules that total over $400 billion a year, more than the entire national deficit.

For every $2.48 million, earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a $300 million special exception allowing taxpayers to rent their homes for two weeks without having to report any income. For every $150,000 appropriated for acoustical pest control studies in Oxford, MS, there is a $2.9 billion special tax exemption for ethanol fuel production.

As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for windmills, for fossil fuel excise taxes for crop dusters, and tax credits for clean-fuel vehicles. In singling out these pork-barrel projects, I do not mean to pass judgment on their merits.

Because many of these tax code provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto wasteful spending not just in appropriations bills but also in tax bills.

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax expenditures. And, in the same spending in the Tax Code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm.

The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line-item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that "the balance of power on budget issues has swung too far from the Executive toward the Legislative branch." There is no tool to precisely calibrate this balance of power, but if we have to swing a little one way or another, at this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues Senators DOMENICI and NUNN that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest. The line-item veto will allow the President to juxtapose the narrow special interests with the broad public interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103rd Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line-item...
veto strategy, one that goes beyond po-
itical demagoguery to the real ques-
tion of how to limit spending. This bill will
allow the President to veto any line
appropriations bill and any bill affect-
ing revenues be enrolled as a separate
bill after it is passed by Congress, so
that the President can sign the full bill
or single out individual items to sign
and veto others. It is different from other bills in
that it avoids obvious constitutional
obstacles and in that it applies to
spending through the tax code as well
as appropriated spending.

Although I acknowledge that sepa-
rate enrollment, especially separate
enrollment for the appropriations provi-
sions, may prove difficult at times, in
the face of a debt rapidly approaching
$5 trillion, I do not believe that we
have the luxury of shying away from
making difficult decisions. If, because
of our appropriations process, we are
unable to easily disaggregate appro-
piations into individual spending
items for the President’s consideration,
then, rather than throw out this line-
item veto proposal, I believe that we
should reconsider how we appropriate
the funds that are entrusted to us.

As I noted previously, the legislation
that I am proposing would remain in
effect for just 2 years. That period
should constitute a real test of the
idea. First, it will provide enough time
for the Federal courts to address any
questions about whether this approach
is constitutionally sound, or if a con-
stitutional amendment is necessary.
Only courts can answer this question,
which is in dispute among legal schol-
ars. Second, we should have a formal
process to determine whether the line-
item veto works as intended: did it
contribute to significant deficit reduc-
tion? Did the President use it judi-
ciously to cut special-interest spend-
ing, or, as some worry, did he use it to
leash the budget ax in recent years, as
faced the budget ax in recent years, as
those who could afford it most. In crafting
cuts as well as tax increases on those
who could afford it most. In crafting
efforts in this regard, the Ominbus
primary tasks has been to leash the
budget outlays” and inserting “, budget out-
lays, and tax expenditures”.

SEC. 3. TAX EXPENDITURE ANALYSIS IN REPORT
ACOMPANYING BUDGET RESOLUTION.
Section 301(e)(1) of the Congressional Budget Act of 1974 is amended by inserting after “revenues” the following: “and tax ex-
penditures”.

SEC. 4. RECONCILIATION MAY INCLUDE TAX
EXPENDITURE CHANGES.
Section 301(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after “revenues” the following: “and tax ex-
penditures”.

SEC. 5. CONGRESSIONAL BUDGET OFFICE RE-
PORT.
Section 202(1)(I) of the Congressional Bud-
et Act of 1974 is amended in the matter fol-
lowing subparagraph (B) by striking “and budget outlays” and inserting “, budget out-
lays, and tax expenditures”.

SEC. 6. EFFECTIVE DATE.
This Act and the amendments made by
this Act shall take effect on the date of en-
actment of this Act.

Mr. DASCHLE. Mr. President, my
distinguished colleague from New Jer-
sy, Senator B RADLEY, and I are intro-
ducing today a bill that I believe
should be an important item on our agenda for the 104th Congress.

For nearly a decade now, one of our
primary tasks has been to lease the
burgeoning budget deficit and keep it
under control. One of our more recent
efforts in this regard, the Ominbus
Budget Reconciliation Act of 1993, went
a long way toward that goal, setting in
motion nearly $500 billion in spending
cuts as well as those that
could afford it most. In crafting
last year’s budget, we took further
steps to cut unnecessary spending.

And yet we are by no means out of
the woods yet. Deficits are expected to
begin rising again in the near future,
surred mainly by increases in health
and care costs.

The process of reducing the budget
deficit is a painstaking one, during
which every item of direct spending is
scrutinized. Even entitlements have
to reach those targets.

These and other changes contained in
the annual budget resolution must in-
clude estimated levels of tax expendi-
tures by major functional category.

The scrutiny stops there.

Nowhere is this information incor-
porated in the budget process in a
meaningful way—a way that spurs ac-
tion to limit this form of spending.

There are no targets for tax expendi-
tures called for in the budget resolu-
tion, and there is nothing to force
Members to view tax expenditures by
cut, comparing aggregate spending in
given area through budget direct spending and tax expendi-
tures. There are no targets for tax expendi-
tures in the annual budget submission to Congress. Second, levels of tax expenditures are included in an annual report released by the Congressional Budget Office.

And third, the report accompanying the annual budget resolution must in-
clude estimated levels of tax expendi-
tures by major functional category.

The scrutiny stops there.

Nowhere is this information incor-
porated in the budget process in a
meaningful way—a way that spurs ac-
tion to limit this form of spending.

There are no targets for tax expendi-
tures called for in the budget resolu-
tion, and there is nothing to force
Members to view tax expenditures by
cut, comparing aggregate spending in
given area through budget direct spending and tax expendi-
tures.
the legislation, which has been dis-
cussed in detail by my colleague from New Jersey, will help translate aware-
ness into action.

As we tackle other important budget issues in this session of Congress, I urge my colleagues to review our legislation care-
fully and consider lending their support for its passage.

By Mrs. FEINSTEIN:
S. 99. A bill to provide for the con-
veyance of lands to certain individuals in Butte County, CA; to the Committee on Energy and Natural Resources.

THE BUTTE COUNTY ACT OF 1995

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to resolve a title problem on the Plumas National Forest in Butte County, CA. The bill would provide for the conveyance of approximately 30 acres of land to 13 indi-
viduals who have had a cloud on the title of their property as a result of a 1992 Bureau of Land Management sur-
vey.

The legislation is identical to S. 399 which I sponsored and H.R. 457 which Congressman WALLY HERGER sponsored in the 103rd Congress. The House passed H.R. 457 and the Senate Energy and Natural Resources Committee approved the legislation, but Congress ad-
joined before we could complete ac-
tion.

Mr. President, this legislation is es-
sential to resolve a hardship to individ-
uals that was caused by an error on the part of the Federal Government.

The problem stems from 1961 when the Forest Service accepted what now appears to be an incorrect survey of the Plumas National Forest boundary. The surveyor could not locate the original survey corner established in 1869 so he established a new corner. Since then, private landowners used the 1961 corner to establish boundaries and build improvements. In 1992 the Bureau of Land Management conducted a new survey, which showed that land previously thought to be outside the boundaries of the Plumas National Forest is actually within the forest boundaries, and thus is Federal prop-
erty. The property owners relied upon the earlier erroneous survey which they believed to be accurate and have occupied and improved their property in good faith.

I believe the property owners should be granted relief as this legislation provides. The bill authorizes and di-
 rects the Secretary of Agriculture to convey without consideration all right, title, and interest in the Federal lands, consisting of less than 30 acres, to the 13 claimants. The bill describes the property in question and the claimants who are entitled to relief. The bill also des-
cribes the process to be followed and assigns to the Federal Government the responsibility to provide for a survey to monument and mark the lands to be conveyed.

Mr. President, there is no Federal in-
terest in this property and the Depart-
ment of Agriculture has repeatedly tes-
tified favorably on this legislation. If the requirement of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed. (2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Man-
dagement, dated November 11, 1989;

(b) all new property lines established by such surveys have been monumented and marked; and

(b) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be re-
sponsible for all surveys and property line markings necessary to implement this sub-
section.

(C) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than 30 days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the pur-
poses of this Act.

By Mr. GLENN:
S. 100. A bill to reduce Federal agen-
ency regulatory burdens on the public, improve the quality of agency regula-
tions, increase agency accountability for regulatory actions, provide for the review of agency regulations, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY ACCOUNTABILITY

ACT

Mr. GLENN. Mr. President, I rise today to address the issue of regula-
tion and the need to improve regu-
lar regulatory decision-making—to improve their quality and reduce their burdens.

In our system of government, we the lawmakers rely on administrative agencies to issue regulations to imple-
ment our laws. The rulemaking process is an open one compared to many coun-
tries—agencies must consider the views of the public, make their decisions on the basis of a rulemaking record, and be prepared to defend their decisions in court. These are the strengths of our administrative process. Unfortunately, there are also weaknesses. General rulemaking principles have not proven rigorous enough—agencies too often promulgate rules whose costs outweigh the benefits, where the regulated risks are insignificant compared to other so-
cietal risks, and where State and local governments or the private sector are unnecessarily burdened with overly de-
tailed red-tape. The list can go on and on.

The problem is not that the Govern-
ment is trying to fix something that "ain't broke." The Government has been responding to the call of the people to address public issues and con-
cerns. In the area of environmental protection, for example, the American people continue to want Government

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to do more to protect our natural environment. The problem is more complicated than the problem is that the government is not working well enough, it is not delivering on its promises to solve problems efficiently and effectively. The American public and Members of Congress know that we simply are not getting enough results for all the legislation, regulation, and expenditure of taxpayer dollars.

Programmatically, each agency and each congressional committee must examine their policies and programs to determine what works and what does not. The administration has made impressive strides in this area through the continuing work of the National Performance Review. This effort will also be helped in the coming years as agencies begin performance reporting under the Government Performance and Results Act of 1993, which I co-sponsored with my friend and colleague on the Governmental Affairs Committee, Senator Roth. This law binds agencies to performance goals and reporting on results, which will help us analyze our performance and figure out how well Government programs are working. In this new Congress, our committee will continue our bi-partisan oversight of the implementation of this important law.

On the process side of the equation, we can and should put into place analytical requirements to guide Federal rulemaking. It may sound simplistic, but most of the complaints about Federal regulation can be addressed just by ensuring that agencies stop and think before regulating. In this Congress, I know that several different approaches are already being considered. Most address single problem areas. I believe that it is our responsibility to design a comprehensive regulatory analysis and review process that is straightforward, understandable by agencies and the public, and can lead to better and fewer regulations. For this purpose, I am today introducing the Regulatory Accountability Act of 1995. I express the full consensus that a summary of this legislation be included in with my remarks.

This legislation requires Federal agencies, as I have said, to stop and think before regulating. Agencies would have to involve affected members of the public, spell out the need for and desired outcome of a regulatory proposal, analyze its costs and benefits, assess the risks of the behavior or substance proposed for regulation, consider alternatives to the proposed rule, weigh the effects on other governmental action—including State and local governments—and analyze any issues that might affect private property rights under the fifth amendment to the Constitution. These analytic requirements include analysis of all proposed regulations, with more in-depth analyses required for major rules.

In addition to the agency requirements, this legislation would place into law a Presidential regulatory review process to be run by the Office of Management and Budget [OMB]. While President Clinton’s regulatory review Executive order has been generally well received, continuing calls for further reaching controls strongly suggest that Congress put into place a workable regulatory review process to ensure integrity and accountability in rulemaking. It is inevitable that overburdensome and unnecessary regulations.

Under this act, OMB would oversee all agency regulatory analyses, review agency rules before they are issued, and supervise an annual regulatory review. The legislation includes the review of existing rules. To ensure accountability for this review process, there would be a 90-day time limit on review—with public notice of extensions, the resolution of disputes at Presidential direction, disclosure of the status of actions undergoing review, and after-the-fact disclosure of regulatory review communications.

Over the years, there has been much controversy about the propriety of Presidential regulatory review. I have always opposed such review. But I have opposed its use as a secret backdoor channel for special interests. I believe that my legislation appropriately formalizes the President’s responsibility to ensure effective and efficient regulatory decisionmaking and establishes sufficient protections to provide for the integrity and accountability for those decisions.

These regulatory issues have been a major concern of the Governmental Affairs Committee during the four Congresses in which I was committee Chair. I know that my good friend, Senator Roth, who is now chairing the committee, shares this commitment and will continue the committee’s leadership in this area. I look forward to our committee’s work on these issues and trust that we will soon report out legislation and bring the debate back to the floor of the Senate.

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

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

SUMMARY OF THE REGULATORY ACCOUNTABILITY ACT OF 1995

1. AGENCY REGULATORY ANALYSIS (SEC. 4)

For every regulatory action, Federal agencies must consider:

1. The need for and desired outcome of the rule;
2. Costs and benefits;
3. Regulated risks and their relation to other relevant risks;
4. Alternatives to the proposed action;
5. Effects on other governmental action (e.g., duplication of other rules, and impact on State and local governments);
6. Takings impacts on constitutional private property right;
7. Major rules (e.g., $100 million annual economic effect) require more in-depth formal analysis and certification that:
   a. Benefits justify costs;
   b. Economic analysis supported by best available scientific and technical information;
   c. Regulation is necessary to achieve benefit);
   d. Federal rulemaking is clearly necessary to solve public problems; and
   e. Rule will substantially advance protections of public health and safety or the environment.

2. PRESIDENTIAL REGULATORY REVIEW (SEC. 5)

Regulatory review by OMB to:

1. Oversee agency regulatory analysis;
2. Review agency proposals before publica-
   tion (including authorizing OMB to return proposals for agency reconsideration); and
3. Oversee annual regulatory planning process (including review of existing regula-
   tory).

Regulatory review time limit of 90 days, subject to extension for good cause and with public notice. Disagreements among agencies and OMB to be resolved by a designated reviewing entity (such review would also be subject to the Act, e.g., time limits and public disclosure).

3. PUBLIC PARTICIPATION AND ACCOUNTABILITY (SEC. 6)

Agencies must improve public participation in rulemaking:

1. Seek involvement of those benefited and burdened by the regulatory action;
2. Publish summaries of regulatory analyses and regulatory review results in Federal Register notices;
3. Place regulatory review-related communications in the rulemaking record.

OMB must provide public and agency access to regulatory review information:

1. Publish summaries of regulatory analyses and regulatory review results in Federal Register notices;
2. Place regulatory review-related communications in the rulemaking record.
3. Disclose to the public (no later than the date of publication of the rule) written communications between OMB and the regulatory agency or any person outside of the executive branch, and a record of oral communications between OMB and any person outside of the executive branch.
4. Disclose to the public (no later than the date of publication of the rule) a written explanation of the review decision;
5. Place the agency on a timely basis written communications and a record of oral communications between OMB and any person outside of the executive branch, and a written explanation of any review decision.

4. RULES OF CONSTRUCTION (SEC. 7)

Nothing in the Act alters an agency’s statutory rulemaking authority or any mandated criteria or deadlines for rulemaking.

5. JUDICIAL REVIEW (SEC. 8)

There would be no judicial review of compliance with the Act. If judicial review of a rule is otherwise undertaken, any regulatory analysis and regulatory review information would constitute part of the record under- going review.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. WELLSTONE, Mr. LAUTENBERG, and Mr. FEINGOLD):

S. 101. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE LOBBYING DISCLOSURE ACT OF 1995

Mr. LEVIN, Mr. President, I introduce the Lobbying Disclosure Act of 1995. Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective, inadequate, and unenforceable; they breed disrespect for the law because they are so widely ignored; they have been a sham and a shambles since they were first enacted almost 50 years ago. At a time when the American public is
increasingly skeptical that their Government really belongs to them, our lobbying registration laws have become a joke, leaving more professional lobbyists unregistered than registered.

The Lobbying Disclosure Act of 1995 would change all of that and ensure that we finally know who is paying how much a part of our Government process today as on-the-record rulemakings or public hearings. But we cannot expect the public to have confidence in our actions unless we conduct our business in the sunshine. The public has a right to know, and the public should know, who is being paid how much by whom to lobby on what issues. This bill is designed to meet that objective, while imposing minimal paperwork and the least possible burden on even those who are paid to lobby.

Mr. President, this bill is not intended to, and should not, create any significant new paperwork burdens on the private sector. Indeed, the bill would significantly streamline lobbying registration and reporting by consolidating filing in a single form and a single location—one-stop shopping—instead of the multiple filings required by current law. It would replace quarterly reports with semianual reports and it would authorize the development of computer-filing systems and simplified forms.

This bill would substantially reduce paperwork burdens associated with lobbying registration by requiring a single registration and a single organization whose employees lobby, instead of separate registrations by each employee-lobbyist—as are required by current law. The names of the employee-lobbyists—and any high-ranking Government position in which they served in the 12 years preceding $5,000 in a semi-annual period. Most small local organizations and entities located outside Washington are likely to be exempt from registration under these provisions, even if their employees make occasional lobbying contacts. Because the lobbying registration requirements in the bill apply separately to local chapters of national organizations if the local chapters are separate legal entities, many such local chapters may be exempt from registration as well.

In short, we have exempted small organizations from registration requirements, even if those organizations have paid employees who lobby, as long as those paid lobbying activities are minimal. We have scrupulously avoided imposing any burdens on citizens who are not professional lobbyists, but merely contact the Federal Government to express their personal views. Mr. President, while we want to avoid any unnecessary burdens on the private sector with this legislation, we must ensure that the public gets basic information about who is paying how much to whom to lobby on what issues. Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the facts that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views to decision-makers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

One of the reasons the public is suspicious of lobbying is the relationship between lobbyists and government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. Current law simply does not ensure even the most basic disclosure. For example, we have learned that Republican FCC Commissioner have occasional lobbying contacts by substituting estimates of total, bottom-line lobbying income (by category of dollar value) for the current requirement to provide 29 separate lines of financial information with supporting data, most of it meaningless. To further ensure that the statute will not impose new burdens on the private sector, the bill includes specific provisions allowing entities that are already required to account for lobbying expenditures under the Internal Revenue Code to use that information for the IRS for disclosure purposes as well.

The bill also includes de minimis rules, exempting from registration any individual who spends less than 10 percent of his or her time on lobbying activities and any organization whose lobbying expenditures exceed $5,000 in a semi-annual period. The election of a new congressional majority cannot change that unless we conduct our business in the sunshine. The public has a right to know, and the public should know, who is being paid how much by whom to lobby on what issues. This bill is designed to meet that objective, while imposing minimal paperwork and the least possible burden on even those who are paid to lobby.

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This bill would substantially reduce paperwork burdens associated with lobbying registration by requiring a single registration and a single organization whose employees lobby, instead of separate registrations by each employee-lobbyist—as are required by current law. The names of the employee-lobbyists—and any high-ranking Government position in which they served in the 12 years preceding registration by each organization whose employees lobby, as long as those paid lobbying activities are minimal. We have scrupulously avoided imposing any burdens on citizens who are not professional lobbyists, but merely contact the Federal Government to express their personal views. Mr. President, while we want to avoid any unnecessary burdens on the private sector with this legislation, we must ensure that the public gets basic information about who is paying how much to whom to lobby on what issues. Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the facts that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views to decision-makers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

One of the reasons the public is suspicious of lobbying is the relationship between lobbyists and government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. Current law simply does not ensure even the most basic disclosure. For example, we have learned that Republican FCC Commissioner
their staffs, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch.

Only 825 persons were registered as active foreign agents, i.e., persons employed to conduct political activities on behalf of a foreign principal under the Foreign Agents Registration Act. In one case examined by the subcommittee, we found that 42 of 48 lobbyists for foreign manufacturers and their domestic subsidiaries were not registered under FARA.

Lobbyists who do register disclose expenditures as trivial as $27 lunch bills, $45 phone bills, $6 cab fares, and $16 messenger fees. One lobbyist even disclosed quarterly lobbying payments of $1,313 to one of its employees. Because of the way these costs are calculated, however, it is impossible to reach any accurate conclusion as to total lobbying expenditures.

Under existing statutes, there is no disclosure requirement when White House and other executive branch officials and employees in the Executive Office of the President, and ranking officials in other Federal agencies, receive information from public officials and media organizations; requests for appointments or for the status of action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency rulemaking; and filing of written comments, rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other federal assistance would be exempt from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location; replacing quarterly reports with semi-annual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist. It would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures (by category of dollar value) for the current requirement to provide a detailed accounting of all receipts and expenditures. The bill would also replace the requirement of FARA and the Byrd Amendment to list each official contacted with a simpler requirement to identify the executive branch agencies, and the Houses and Committees of Congress, that were contacted.

At the same time, the bill would close loopholes in existing law by requiring the disclosure of the identity of coalition members who both pay for and supervise the lobbying activities. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 20 percent equitable ownership of a client would have to be disclosed. Finally, the bill would improve the administration of the lobbying disclosure laws by creating a new Office of Lobbying Registration and Public Disclosure to administer the statute; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance (including published advisory opinions) available to the public for the first time; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines (subject to judicial review) for existing criminal penalties for non-compliance.

Mr. President, in the last Congress, the Lobbying Disclosure Act was passed by the Senate on a 95-2 vote. The gift portion of the bill was passed on a 95-4 vote. A conference report was then passed by the House and sent to the Senate for final consideration. Unfortunately, objections by a number of Senators to certain provisions related to grass roots lobbying made it impossible to enact the bill at that time.

That failure, however, cannot change the fact that 95 Members of this body have affirmed the enactment of this measure. If we act quickly, we can still have new congressional gift rules in place by the May 31, 1995, deadline provided by the legislation considered by the Senate last year.

The so-called grass roots lobbying provisions in the conference report to S. 340, to which some objected in the last Congress, are no longer in this bill. We have instead returned to the original Senate provisions on these points. In particular, the bill has been revised to make the following changes:

- The definition of grass roots communications has been deleted;
- The requirement to disclose persons paid to conduct grass roots lobbying communications has been deleted;
- The requirement to separately disclose grass roots lobbying expenses has been deleted;
- The original Senate provision with regard to the treatment of lobbyists' efforts to stimulate grass roots lobbying in the definition of lobbying activities has been restored;
- The requirement to disclose when somebody other than the client pays for the lobbying activities has been deleted;
- All references to individual members of a coalition or association as clients have been deleted;
- The descriptive language in the religious organizations exemption has been deleted;
- The maximum penalty for violations has been reduced from $200,000 to $100,000 (as originally reported by the Senate Governmental affairs Committee); and
- Provisions authorizing registrants who are covered by IRS lobbying provisions to use IRS numbers and definitions for the purpose of lobbying under the Lobbying Disclosure Act (to avoid double-bookkeeper) have been clarified and strengthened.

Mr. President, I have been working on this legislation for more than 4 years now. The two major elements of the bill are about to pass the Senate. In this Congress, on votes of 95-2 and 95-4. This bill has strong support of the President and it has the strong support of the public. The need for reform of our outdated and loophole-ridden lobbying registration and laws and gift rules could not be more clear. We should enact this bill this year.

By Mr. GLENN:
S. 102. A bill to amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of the United States nuclear export controls, and for other purposes; to the Committee on Governmental Affairs.
NUCLEAR EXPORT REORGANIZATION ACT

Mr. GLENN. In remarks at the White House on October 18, 1994, President Clinton stated the following:

There is nothing more important to our security and to the world's stability than preventing the spread of nuclear weapons and ballistic missiles.

And I certainly agree with that. That statement echoes the national security goal that I proposed a decade ago, and yet much of our nuclear proliferation effort is so scattered and so uncoordinated that it too often is ineffective, as I view it. This bill would help correct a lot of that. It is the Nuclear Export Reorganization Act. It deals largely with those areas of dual-use items—those items that may have a regular civilian use, but which may be also key to the development of nuclear weapons. We have not monitored these carefully enough, and this act would take care of that. I think, and make a better, more coordinated effort.

By all indications, our Government will in the years ahead have to accomplish a lot more with a lot fewer resources. As the budgetary belt tightens, it becomes all the more vital that we focus our priorities straight and that we use these resources much more efficiently and effectively than they have been used in the past. Our civil servants and diplomats who administer our foreign and defense policies need unambiguous guidance as to what needs to be done to advance the national interest.

I am certain that this specific Presidential priority is strongly shared by an overwhelming bipartisan majority in the Congress. I am sure the Congress will be able to work with the President in pursuit of measures to address this dangerous threat to our Nation.

By all indications, there is a lot of work for us all to do. Now that the President has so clearly articulated the challenge that lies ahead, it is important for us to have an equally clear statement of what needs to be done to address that challenge. A key question facing the new Congress must be this: is our Government organized today to meet this challenge?

I believe the answer to this question is clearly, no, especially with respect to the organization of our national system for processing export licenses for what are called nuclear dual-use goods—items that can be used for civilian purposes or for building nuclear weapons.

To illustrate the problem, I will refer to a major report prepared by the Offices of the Inspector General in the Departments of Commerce, Defense, Energy, and State, dated September 1993, and another study prepared at my request by the General Accounting Office and released by the Committee on Governmental Affairs in May 1994.

Mr. President, I ask unanimous consent to insert at the end of my remarks two detailed committee staff summaries of these reports.

Quoting from the report by the four Inspectors General, here is what they had to say about our system for administering nuclear dual-use export controls:

NO ACCOUNTABILITY

The Energy IG found that Energy's recordkeeping was not in compliance with the Export Administration Act and that Energy's degree of compliance with the Nuclear Non-Proliferation Act could not be determined. The IG report found licensing authorities using their own unwritten criteria to make decisions. They found documentation of the grounds of these decisions to be non-existent.

LACK OF ACCURACY

The Department of Commerce approved 87 percent of nuclear dual-use licenses for FY 1987 to 1992. Licenses are being required for fewer and fewer goods: the number of licenses for nuclear dual-use goods dropped 81 percent from FY 1987 to 1992.

There is precious little in either of these reports to reassure members of Congress that our system for licensing nuclear dual-use items is up to par. At the very least, the system falls far short of reflecting the high priority that the President has determined should be accorded to halting the proliferation of nuclear weapons, a problem that is constantly aggravated by dangerous exports.

One report indicates that the Nuclear Non-Proliferation Act of 1978 has long been aware that our nuclear export control process was in need of reform. On May 27, 1993, I introduced S. 1055, a bill that contained many of the proposals I am...
introducing today in the Nuclear Export Reorganization Act of 1995. It is useful to note that the reports by the Inspectors General and the GAO were prepared well after I introduced my original bill in 1993—the reports nevertheless underscore the obvious need for major reforms in the nuclear dual-use export licensing process.

In summary, the bill I am introducing today—the Nuclear Export Reorganization Act of 1995—includes improvements in export controls and measures to face up to the challenge of the global plutonium economy.

First, as I have said before on several occasions, we must no more take the profits out of proliferation. Specifically, I believe the President should have clear and unambiguous authority to impose sanctions against companies that engage in illicit sales of nuclear technology and to require new sanctions against countries that traffic specifically in bomb parts or critical bomb design information. The sanctions provisions—which include a ban on government contracting with firms that materially and knowingly assist other nations to build the bomb, additional severe penalties against nations that traffic in bomb parts or critical bomb design information—were enacted last year as an amendment to the State Department authorization bill. My bill today will remove a sunset clause that was added to this sanction authority in the last Congress.

Second, I am proposing some significant improvements in the export licensing process. My proposal is designed to be responsive both to the legitimate needs of the exporting community for an efficient and effective licensing process and to the compelling interest of all citizens in protecting our national security.

In particular, the export control reforms would accomplish the following: (1) It would provide authority to issue dual-use export licenses in the Commerce Department, while ensuring that key agencies with national security responsibilities have full rights to review license applications and to oppose approvals when they would be contrary to the country’s nuclear nonproliferation interests.

2. It would establish the interagency Subgroup on Nuclear Export Coordination—which has existed in regulatory form for about a decade—as a formal statutory entity within the National Security Council and would endow it with a clear structure and mission.

3. It would ensure timely access by relevant agencies to export licensing data and expand information available to the public about dual-use nuclear exports.

4. It would clarify in law the terms for denying export licenses by adopting a standard that is now applied by 26 major nuclear supplier nations, not just the United States. And consistent with this multilateral standard, there are no loopholes or special country exemptions in the legislation I am introducing today.

5. It would encourage the basic goal of developing in the United States a domestic industry capable of competing in international markets to sell energy technologies that do not contribute to nuclear weapons proliferation.

6. It would establish a mechanism by which private U.S. industry can assist the Government in identifying foreign competitors that are engaging in illicit nuclear sales, and by so doing, assist in the implementation of appropriate sanctions.

7. It would encourage private firms to adopt voluntary codes of conduct to regulate sales activities without active Government intervention.

8. It would upgrade the role of the Department of Defense in reviewing and approving proposed U.S. agreement for nuclear cooperation and proposed exports of U.S. nuclear technology.

9. It would define in law for the first time in U.S. history a term that lies at the heart of nuclear nonproliferation efforts, namely, a “nuclear explosive device.”

10. It would establish in law specific deadlines on the processing of licenses to export dual-use nuclear items.

11. It would require the Export Control Bulletin to address the needs of exporters for more detailed information both about the evolution of U.S. nuclear regulations and the nature of the global threat of nuclear weapons proliferation.

12. It would provide a means by which potential exporters can obtain advisory opinions from the Subgroup with respect to activities that may subject exporters to possible sanctions under existing nuclear export control laws.

The bill also includes several findings that declare the Congress with respect to growing international commercial uses of plutonium, and a requirement for the President to review and modify, as appropriate, a 1981 policy that served to promote such uses. Ever since 1981, America has been turning a blind eye toward the global proliferation and environmental risks from large-scale commercial uses of the nuclear fuel cycle in Europe, Russia, and Japan. It is time for that policy to be reviewed and brought into line with the high priority our country is supposed to be giving to the goal of reducing the risks of nuclear weapons proliferation.

CONCLUSION

Bernard Baruch once said over 45 years ago that “we are here to make a choice between the quick and the dead.” Today, I can say that we have several new choices to make, each one potentially affecting the future of this planet. We must choose between leadership and acquiescence, between quick profits and the defense of our national security interests, and between the rule of law and the law of the jungle. The security threat we must collectively address—both politically here at home and in partnership with other nations—is nuclear war. We have an obligation to do all we can to stop all forms of nuclear weapons proliferation, and—as in the recent cases of South Africa and Brazil—to work to roll back existing bomb programs wherever they may be.

Mr. President, I will have more to say about the proposed legislation in the months ahead and look forward to working with the new congressional majority and the Administration in ensuring its early enactment. These reforms are long overdue. I encourage my colleagues to join me in this effort to revitalize these key elements of our nonproliferation strategy.

I ask unanimous consent that additional material be printed in the Record.

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

SUMMARY OF IG REPORT


NO ACCOUNTABILITY

The Energy IG found that Energy’s record-keeping “was not in compliance” with the Export Administration Act and that Energy IG investigators were told that key documents would be “almost impossible” to find due to the “poor organization” of Energy’s files. Such documents “could not be requested by these investigators. Some referral policies are worked out in an informal inter-agency group that “does not maintain for official use records of its referral policies.” Commerce computer records are “sometimes changed” with no “reliable record of who made these changes and when they were made.”

COMMUNICATION PROBLEMS

Defense IG once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that “accounting inaccuracies” between Commerce, Defense, and State control and intelligence shops at Energy were “poor.”—at one point, an outside “facilitator” had to be brought in to patch up relations. Commerce’s Census Bureau will release export data with Commerce’s export licensing office. Commerce will not show its licensing manual to other agencies. State IG found Commerce’s licensing procedures were “scattered” and “an awkward mechanism.” Energy refers most of its licenses to the weapons labs with the least intelligence resources, and the fewest of licenses went to weapons labs with the least intelligence resources. Commerce still does not grant full access to its licensing database to other agencies handling nuclear dual-use exports. The Defense...
IG found that DoD licensing officers “need to communicate” more with relevant offices in Defense. State gets a total of 3,000 licenses annually from Commerce, while Energy gets about 6,700 referrals (dealing just with nuclear dual-use items).

LACK OF FOLLOW-UP

The State IG found that “considerable dis- array exists” in the operation of pre-license and post-shipment checks; the system was “haphazard and ineffective,” and the program suffered from “insufficient historical records and program tracking.” Commerce lacks a “strategic plan” to conduct such checks. In 1993, he added, it was “impossible to check intelligence” and contains “numerous errors and misrepresentations.” Foreign US posts complain about the lack of information to do the checks. They sometimes check by telephone because of a lack of funds. Checks are often done using foreign nationals—a “lack of funds.”

While Commerce officials complain of a “dwindling budget” and “budget constraints,” some checks have been canceled due to “lack of funds.”

Respondents told the Energy IG that Energy’s export control staff was “awfully thin”—the IG report said Energy’s export control staff had two individuals experienced in processing cases . . . and one was leaving. The Defense IG found that Defense’s nonproliferation office had just two individuals experienced in processing cases . . . and one kept “no files at all.”

When asked what intelligence database was used in Energy’s export control office, a supervisor said: “We either have no intelligence . . . or it is not there.” Energy’s database was cleared to store very limited classified data—Commerce’s system is unclassified. There are “inconsistencies” about 25% of licenses surveyed in the databases of Energy and Commerce, which the Energy IG said “call into question the integrity of the export licensing program.”

One lab scientist called licensing information “a gold mine that’s not being mined.” Defense’s database does not log final agency position on a case. Neither of the license databases of Energy and Commerce shows whether or not a good was ever shipped; the Energy database does not even show if licenses were fully approved. Disaggregated files at State made information on export trends “almost impossible to ascertain.”

FOUR U.S. INSPECTORS GENERAL IDENTIFY SEVERAL PROBLEMS IN U.S. DUAL-USE EXPORT CONTROLS


January 4, 1995

Resolution of referral issues is important to the U.S. and the Department of Defense. The average amount of time that would be available for an analyst to review a case is very limited. Not taking into account time off for annual leave, sick leave, training, travel, or other activities, we estimated that a maximum of 40 minutes per case would be available.

The Energy IG found that the Pentagon’s Office of Non-Proliferation Policy . . . has two managers, one action officer for missile technology, two for nuclear issues, and two for chemical and biological issues. In view of the number of nuclear dual-use export cases . . . and the relatively small staff assigned to review them, the average amount of time that would be available for an analyst to review a case is very limited. Not taking into account time off for annual leave, sick leave, training, travel, or other activities, we estimated that a maximum of 40 minutes per case would be available.

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The Export Control Supervisor at Energy’s National Laboratories said that he ‘‘had no structured intelligence data base to use in support of export cases.’’ He explained that Energy’s automated Export Information System (EIS) was not designed to handle the field always reflected ‘‘no information’’ available. He explained that Energy had no process in place or no dedicated employee to update the EIS which varies as to cases they can view, what information is available, and when they can view it. Consequently, it would seem desirable that in the long term, expanded access to and use of the ECASS system by all involved agencies could enhance the effectiveness of the licensing investigation process. Addition to providing greater assurance that the most current data is being reviewed, increased access by the agencies can enhance the availability of the applicant’s data, which are not passed by Commerce to the agencies involved in a license application decision call into question the integrity of the export licensing process. ‘‘. . . the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample due to infractions.’’

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The Energy IG investigators stated that they believe ‘‘. . . that the lack of information concerning the final disposition of export license applications . . . the lack of information may limit Energy’s ability to provide expert technical and analytical capabilities to other agencies with which the intelligence community needs to produce and disseminate foreign intelligence in support of the Department.’’

We found inconsistencies in license applications for the same technologies in the separate export licensing data bases maintained by Commerce and Energy. Specifically, we found differences in the data bases for 23 percent of 60 export license cases that we reviewed. ‘‘. . . the Energy IG report concluded that ‘. . . that inconsistencies in agency records . . . could be detrimental to the government’s position in responding to an appeal of a license application decision or a court challenge of the government’s decision. We also believe that differences in the records maintained by the agencies involved in a license application decision call into question the integrity of the export licensing process. ‘‘. . . the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample due to infractions.’’

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Verification and Enforcement

‘‘Energy does not have the information maintained by Commerce and State regarding the final disposition of export cases referred to Energy.‘’ [5]

‘‘Pre-license checks are used to verify end-user information prior to the issuance of a license; post-shipment verifications are used to verify compliance with the terms of a license. Both programs at Commerce lack a strategic plan for carrying out the programs’ objectives. We also identified problems with the way the checks are being conducted.’’ [3]

‘‘Many of the overseas posts believe they need more information to effectively perform checks and verifications. Finally, the accuracy of export information contained in the databases was often erroneous and misleading. As a result, there is no assurance that either the pre-license checks or the post-shipment verifications are effective.‘’ [A±2]

‘‘Commerce officials ‘expressed concern that they did not have the needed resources to fully accomplish’’ the reporting requirements and ‘‘improving compliance with conditions on licenses.’’ Commerce officials agreed to seek improvements in ‘‘their budget constraints’’ and ‘‘in light of the dwindling resources.’’ ‘’[A±2]

‘‘Export Administration’s database tracks the progress and status of prelicense checks. Our review found that ‘‘[t]he high error rate makes the prelicense check information contained in the database. This is due to a combination of initial mistakes by Enforcement Support staff and the inabil- ity to correct errors once they are identified . . . there is no assurance that statistics and information derived from the database are reliable.’’ [A±18] For three countries we visited, 64 pre-license checks were requested from January 1, 1992 to September 30, 1992. For 12 (19 percent), the status of the check was misidentified. Several checks that had been canceled and never performed were list- ed on the printout as ‘‘favorable’’ . . . The rel- ative high error rate calls into question the reliability of any statistics generated from
post-shipment verification information maintained in a separate database also contained errors. . . . [the cases reviewed by the Commerce IG] represent an error rate of 21 percent. . . . [A±16]

"There is no strategic plan with stated objectives and priorities for conducting random testing within the checks and verification process. . . . There is no assurance that the random checks and verifications are obtaining the maximum benefits for the programs. Without stated objectives and priorities, the efficiency of the processes is difficult to measure. In fiscal year 1992, 132 requested pre-license checks were canceled for a variety of reasons. . . . [A±16]"

Imports and Exports

"Six of the 11 posts used foreign . . . nationals for post-shipment verifications. The new Export Administration Act of 1979 . . . makes the program less effective and results in wasted time and money. . . . [A±15]"

Exports

"The NRC . . . must be informed about applications for exporting certain nuclear-related commodities to specific countries. Our review [by the Commerce IG] identified two cases that were not processed in accordance with this policy. . . . [A±19]"

"While we found no evidence of inappropriate or incorrect recommendations by Energy, the Export Control Operation Division does not retain records to show the basis for its advice, recommendations, or decisions or its justifications for listing the lists of controlled commodities. The division is therefore not in compliance with certain provisions of the Export Administration Act of 1979. . . . and with records management directives from Energy. As a result, it was not possible to determine the extent to which Energy used the criteria in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 in making licensing recommendations. In addition, the Export Control Operation Division did not have current written procedures for processing export cases. . . . [C±18]"

"The Commerce IG investigators . . . believe the records [in 36 of the Export Information System (EIS)] lack certain required information. Specifically, the EIS did not contain information concerning the factual or analytical bases for Energy's advice, recommendations, or decisions regarding export cases. . . . [C±15]"

ECO
delivered in a Blue Lantern response to a Blue Lantern request, Customs officials most often relay the request to the Blue Lantern exporter who would then investigate the transaction and inform U.S. Customs of the result."[D±15]

ACCOUNTABILITY

"ECO personnel could not provide us documentation that they followed the written procedures in the EAR, NNP, and Energy guidelines regarding export licensing activities. . . . [C±20]"

"While we found no evidence of inappropriate or incorrect recommendations by Energy, the Export Control Operation Division does not retain records to show the basis for its advice, recommendations, or decisions or its justifications for listing the lists of controlled commodities. The division is therefore not in compliance with certain provisions of the Export Administration Act of 1979. . . . and with records management directives from Energy. As a result, it was not possible to determine the extent to which Energy used the criteria in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 in making licensing recommendations. In addition, the Export Control Operation Division did not have current written procedures for processing export cases. . . . [C±18]"

"The Commerce IG investigators . . . believe the records [in 36 of the Export Information System (EIS)] lack certain required information. Specifically, the EIS did not contain information concerning the factual or analytical bases for Energy's advice, recommendations, or decisions regarding export cases. . . . [C±15]"

"An ECO [Energy] export control analyst said that he destroyed paper copies of information that he received or wrote pertaining to export cases . . . He also said that he left the time and space to file and retain documents regarding the cases. . . . [C±16]"

"We could not conclusively determine that the ECO export control analysts followed the Part 778.4 factors in their review of export cases. ECO analysts said that they had no records to document that they applied the Part 778.4 factors to their analysis. Moreover, we were unable to determine the extent to which ECO analysts used the Part 778.4 factors in determining the significance of the commodities for nuclear explosive purposes. One ECO export control analyst said that, although he did not consider the export control factors in processing export cases, he conducted a mental examination and did not record the thought process that he used in making his determination. . . . [C±18, 19]"

"We also could not determine conclusively if the Energy national laboratories considered the Part 778.4 factors in reviewing export cases . . . According to one ECO export control analyst, the laboratories are not required to address the Part 778.4 factors for their technical reviews of export cases . . . Laboratory security personnel said that the ECO export control analysts at each of the three Energy national laboratories that we visited were instructed to retain documentation regarding the bases of the advice and recommendations that they provided to the ECO on export cases. . . . [C±19]"
We could not conclusively determine if EOD personnel considered the NNP4 criteria in their decisions to refer export cases to the SNEC. Based on a limited review of records in the EIS, we determined that the EIS required records regarding AEAs in order to satisfy factual or analytical bases for recommending refer to export cases to the SNEC. The EOD Export Control Supervisor said that he made a mental determination whether the case should be referred to the SNEC by applying the criteria cited above . . . He said that no record was generated by the EIS regarding the AEA recommendations. [A±1]

One EOD (Energy) export control analyst, according to Commerce IG investigators, said that he obtained recommendations on licenses from the national laboratories but that he "did not enter the bases for the laboratoy's recommendations" into the Energy license database; after entering the labs' recommendations, the analyst "destroyed the documentation that the laboratories provided" and the analyst "did not retain records" of telephonic responses by the labs. [C±16]

"During an interview with the Director, EOD (Energy's Export Control Operations Division), we asked for a copy of the Division's Records Inventory and Disposition Schedule. The Director, EOD, was not aware that EOD had a Records Inventory and Disposition Schedule." [C±16]

"We asked EOD personnel to provide specific documents [e.g., memos pertaining to letters delegating review authority, National Security Directive 53 on procedures for processing cases, and the latest revisions of commodity control lists] that, in our opinion, should have been retained in accordance with the provisions of the EAA . . . several" could not be produced by EOD personnel from their records." [C±16]

"We could not determine the degree of compliance by Energy with the export licensing procedures required by the Export Administration Act (EAA) of 1979 and the Nuclear Non-Proliferation Act of 1978 (NNPA) because the Export Control Operations (EOD) did not retain records documenting the bases for its advice and recommendations on export cases."

"Agency officials also advised us that some of the key information [e.g., information on the views of licenses] incorporated in the manual is based on the decisions of an informal interagency working group consisting of representatives of Commerce, Defense, Energy, State, the National Security Agency, and the Arms Control and Disarmament Agency. We were informed that this working group does not maintain formal records of its meetings or policies." [15]

"[Commerce IG found that] Commerce does not maintain sufficient documentation for the applications received and for subsequent licensing actions taken. As a result, audit trails for the actions taken are often incomplete." [A±1]

"We asked Commerce whether it maintains sufficient documentation to provide a reliable audit trail of the actions taken on applications. [2] . . . there is no reliable documentation of the actions taken on the applications." [A±8]

"The computer record of the application is sometimes changed by Export Administration during the review process there may be valid reasons for these changes, the current review process, or the review process does not provide a reliable record of who made these changes and when they were made. There is no permanent record of what was discussed or recommended during the daily transactions by Export Administration officials." [A±8]

"The Blue Lantern process at a number of the posts visited was haphazard and inadequately documented. Blue Lantern officials at three of the posts visited did not keep files or records of their Blue Lantern checks or other export activities. In addition, most of the posts did not have complete sets of the DTC Blue Lantern guidance readily available." [D±16]

Weakening the Laws and Regulations

"While the Export Administration Act gives decision-making authority for dual-use license applications to Commerce and seems to encourage that this be done with limited referral to other agencies, certain sections of the act impact on this authority. At best, the statute is somewhat ambiguous . . . we recommend that the respective roles of the various agencies involved in the dual-use export-licensing process be clarified in reaffirming the Export Administration Act." [6]

". . . there is still disagreement among the agencies regarding which applications should be referred for comments. Until this issue is resolved the agencies will not have adequate assurance that the license review process is working efficiently and effectively as it should . . . the underlying problem is the lack of clear and apparently conflicting guidance given to the process by legislative mandates and Presidential directives . . . there is no ongoing process to resolve the differing views on what to refer." [2]

[Commerce should] "Report to the Congress the cases referred to the Sub-Group on Nuclear Export Control when the cases are delayed more than 120 days." [A±7]

"Part 788.4 of the EAR does not specifically direct Energy to consider these factors; nor does it reflect the conflicting guidance given to the process by legislative mandates and Presidential directives. There is, there is no ongoing process to resolve the differing views on what to refer." [2]

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During fiscal years 1988 to 1992, the United States issued 238 licenses for computers to certain users linked to the unsafeguarded Israeli nuclear program [including some that] were also more powerful than those used to develop many of the weapons in the U.S. nuclear arsenal. [30]

"For 62 of the 238 licenses, the United States received government-to-government assurances against nuclear use... although the U.S. government has not verified compliance." [30]

"The U.S. government approved 23 licenses during fiscal years 1988 and 1989 for computer equipment later determined by the United Nations to be involved in Iraq's nuclear weapons program... [specifically including] Iraqi state establishments involved in nuclear-related activities. According to a U.S. government assessment, Iraq may have made use of such computers to perform nuclear weapons design work, as well as to operate machine tools which they have been using to fabricate nuclear weapons, centrifuges, and electromagnetic uranium enrichment components...At the time these licenses were approved, only the Iraqi Atomic Energy Commission was identified as a sensitive end user; other Iraqi state establishments were not identified as potentially involved in nuclear weapons activities." [30-31]

"The United States approved 33 licenses to a nuclear research center in India that operates an unsafeguarded reactor and unsafeguarded isotopic separation facilities... [according to the CIA director] the center is also involved in nonnuclear weapons design work...[The U.S.] also approved six licenses involving NRL items such as computers, equipment for ammonia production for Indian fertilizer factories [that] make nonnuclear goods but can be used to make plutonium." [32]

Between fiscal years 1988 and 1991, GAO identified "two cases were Commerce approved licenses going to a government of other SNEC agencies had voted that they be denied." [36-37] The cases involved a flash X-ray system going to "an end user suspected of being involved in nonnuclear nuclear activities" and a computer "to an end user which at the time was a known divertor." [37]

SCOPE OF U.S. SALES

"During the past several years, the Department of Commerce approved a significant number of licenses for dual-use dual-use items to Special Country List destinations and returned 11.8 percent without action (meaning that the exporter failed to provide sufficient information or withdrew the application, or that Commerce did not require a validated license)." [28] "This approval rate was only slightly lower than that for all countries--on average, Commerce approved 7 percent of dual-use licenses during this period, dened 1.5 percent, and returned 8.9 percent without action." [28]

"Of the 92 categories of items listed in the Export Administration Regulations since fiscal year 1985 as controlled for nuclear proliferation reasons, 59 were licensed to Special Country List destinations between fiscal years 1985 and 1992. Worldwide, 67 of the 92 NRL items were licensed during this period." [19]

"...over 1,500 nuclear-related dual-use licenses were approved by the U.S. government to end users in these countries involved or suspected of being involved in nuclear proliferation activities. Some licenses involved technically significant items or facilities that have been denied licenses in other cases because of the risk of diversion to nuclear proliferation purposes. These approvals, although generally consistent with U.S. policy implementation guidelines, did not present a serious risk that U.S. exports could contribute to nuclear weapons proliferation." [24]

"[U.S. nuclear-related dual-use goods were approved for end users that] have been or are suspected to be key players in their countries' nuclear weapons programs...[23] "Although most of the licensing decisions for the eight countries we reviewed were in accord with the goal of minimizing proliferation risk, we did identify a number of licenses for exports to commercial end users engaged in, or suspected of being engaged in, nuclear weapons proliferation." [27]

"...of the 24,048 licenses approved for these eight countries [Argentina, Brazil, India, Iran, Iraq, Israel, Pakistan, and South Africa], 1,508 (6 percent) were for end users involved in or suspected of being involved in nuclear weapons development or the manufacture of special nuclear materials...[including sensitive end users that have played a key role in countries' weapons programs]." [29] "Even though no Energy delegations of authority to Special Country List destinations involved computers and computer-related equipment, compared with 77 percent for all countries." [18]

"The NRL items most commonly licensed have a variety of applications for nuclear weapons development, including weapons testing, uranium enrichment (isotopic separation), and weapons detonation. According to Energy officials, these items are in greater demand than the rest of the NRL because they have many civilian applications. In contrast, NRL items with relatively few nonnuclear uses were approved in small numbers or not at all, especially to Special Country List destinations." [20]

LICENSEING PROCEDURES AND POLICIES

"The Commerce Department did not always refer nuclear-related license applications to the Department of Energy as required by regulations. From fiscal years 1988 to 1992, Commerce unilaterally approved the majority of non-NRL items and other nuclear-related items to countries of proliferation concern, even though these licenses should have been referred to Energy. Commerce also approved without Energy consultation numerous licenses for other items going to end users engaged in nuclear weapons activities, despite regulations requiring referral of such licenses." [4]

"[From fiscal years 1988 to 1992, Energy did not forward to the Subgroup on Nuclear Export Coordination about 80 percent of the licenses it received from Commerce for end users of nuclear proliferation concern...[including goods] intended for end users suspected of developing nuclear explosives or special nuclear materials. To date, the Commerce Department did not always send to Energy all those licenses requiring referral and that Energy recommended approval of a majority of licenses for end users engaged in nuclear weapons activities without subjecting them to interagency review." [33]

"From fiscal years 1988 to 1992, Commerce decided without Energy consultation about 50 percent of the 34,261 nuclear-related dual-use license applications to Special Country List destinations. Of the licenses Commerce approved without Energy recommendations to Commerce on about 93 percent without subjecting them to interagency review." [36]

"From October 1976 to May 1992, Commerce approved about 130 licenses for NRL items going to Special Country List destinations without obtaining Energy review, even though Energy had recommended denial or modification with conditions applied." [37] "In addition to the NHL licenses, Commerce approved without Energy review nearly 1,500 licenses for non-NRL items going to end users on the Special Country List, even though regulations require Energy review of non-NRL licenses involving nuclear end users." [37] "Of these licenses, about 500 were for sensitive end users." [37]
Defense and Arms Control and Disarmament Agency representatives to the Subgroup identified a number of licenses that they believed warranted interagency review but were not placed on the Subgroup's agenda. [49] Defense and ACDA officials stated that not all nuclear-related dual-use licenses could be of concern to various SNEC agencies because they are being referred to the Subgroup. Defense and ACDA officials said they have only a limited ability to hold Energy accountable for its licensing recommendations because they lack access to licensing information on licenses approved without SNEC review since October 1991. [41]

From fiscal years 1988 to 1992, "Energy referred 26 percent of Commerce for end-user licenses. Commerce selected a number of cases for inspections without an accompanying U.S. official who was a former employee of the Foreign Service. Energy Watch List, however, indicates that the facility was a primary contributor to Iraq's weapons program. [50] GAO found that "According to U.S. officials, the U.S. government does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use goods. [47] Current guidelines apply more generally to all export controlled items. Without this focus," GAO found, "Commerce cannot be certain that the licenses presenting the greatest nuclear proliferation risk are selected for inspection." [47] The selection criteria for conducting PLCs and PSVs do not highlight the most sensitive nuclear-related dual-use items "or even distinguish the relative importance of items having uses in nuclear, chemical, or biological weapons proliferation or missile technology applications." [48] GAO found that "Embassy officials in Pakistan have difficulty gaining access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO also found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO also found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO also found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO also found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty."
Mr. D'AMATO. Mr. President, I introduce a bill to permanently establish by statute the position of the Coordinator of Counter-Terrorism within the office of the Secretary of State, to the Committee on Foreign Relations.

THE COORDINATOR FOR COUNTER-TERRORISM POSITION ACT OF 1995

Mr. D'AMATO. Mr. President, I introduce a bill to permanently establish by statute the position of the Coordinator of Counter-Terrorism within the office of the Secretary of State.

Under my amendment, the Coordinator shall have the rank of "Ambassador-at-Large," a position that will require Senate confirmation, thereby giving the office an enhanced position in its relations with the other federal agencies that fight terrorism, and equal rank with similar officials of other nations.

Last year, the administration proposed to downgrade the position—a decision that was wrong then and is still wrong today, for a number of important reasons. Let me explain.

First, now is not the time to lower our guard against terrorism. Nearly 2 years ago, terrorism struck our shores when terrorists bombed the World Trade Center and planned additional bombings. Acts of terrorism have not lessened, but gotten more dangerous. We need look no farther than the heinous bombings in Buenos Aires, Panama, Tel Aviv, and the continuing Hamas campaign to disrupt the ongoing peace process, to see that the terrorist threat is real and requires a strong, capable fight against terrorism.

Second, downgrading the position sends a message that we are not serious about fighting terrorism and that we don't consider it a priority. What will the terrorists think if we downgrade an office designed to thwart their attacks on American targets? I think they will become emboldened. This move can have a negative effect on our counter-terrorism efforts.

Finally, downgrading the position makes it harder for the Coordinator to organize a coherent counter-terrorism policy because he or she will not be able to deal effectively with the other members of the Federal bureaucracy in the fight against terrorism.

Mr. President, I would like to point out that according to the Congressional Research Service, between 1988 and 1993, including the attack on the World Trade Center, 769 Americans were killed in terrorist acts in the United States. Moreover, in the World Trade Center bombing of February 26, 1993, in which six people died, over 1,000 others were injured. Losses incurred in that bombing surpassed $1 billion. As we all know, the terrorist threat is an enormous and dangerous operation. Fortunately, they were caught before more damage could be done.

Now is the time to put fight against terrorism on the backburner? Is now the time to divest ourselves of the responsibility to deal with terrorism? Is now the time to downgrade the position? I don't think so. Nor do I think that we, as a nation, can tell the families of these 769 people that the death of their loved ones are going to be forgotten. I don't think that anyone in this Chamber would want to tell them that we should relent in our fight against terrorism.

But, if we allow the administration plan to downgrade the Coordinator to go forward, we will lose our ability to deal effectively with this threat. The 1990 Report of the President's Commission on Aviation and Security, following the bombing of Pan Am Flight 103, called for the creation of such a position. Interestingly, four former counter-terrorism and international narcotics control officials, in a letter to me begged, "Don't gut our counter-terrorism capability."

In another letter to me, Lisa and Lisa Kinghoffer, daughters of Leon Kinghoffer who was murdered by terrorists on the Achille Lauro in October 1985, urged that a separate and independent office be kept at the State Department as "the most effective implementation of the administration's counter-terrorism policies and initiatives."

If we are going to be serious about the fight against terrorism, we must have the right resources. One of those resources is an Ambassador-at-Large for Counter-Terrorism. This Ambassador will act as the sole voice and have direct access to the Secretary of State and will coordinate our nation's fight against this scourge that we must stand up to, and that we must defeat.

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. 104

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

SECTION 1. COORDINATOR FOR COUNTER-TELECOM.

(a) ESTABLISHMENT.—There shall be within the office of the Secretary of State a Coordinator for Counter-Terrorism (hereafter in this section referred to as the "Coordinator") who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—(1) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

(2) The Coordinator shall have as his principal duty the overall supervision (including oversight of covert or overt international counterterrorism activities. The Coordinator shall be the principal advisor to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and report directly to the Secretary of State.

(c) RANK AND STATUS.—The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code. The Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

(d) DIPLOMATIC PROTOCOL.—For purposes of diplomatic protocol among officers of the Department of State, the Coordinator shall take precedence after the Secretary of State, the Under Secretary of State, and the Under Secretary of State and take precedence among the Assistant Secretaries of State in the order prescribed by the Secretary of State.

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. DORGAN, Mrs. KASSBAUM, and Mr. BAUCUS):

S. 105

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO PROVIDE THAT CERTAIN CASH RENTALS OF FARMLAND WILL NOT CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION; TO THE COMMITTEE ON FINANCE.

THE SPECIAL USE VALUATION FOR FAMILY FARMS ACT OF 1986

Mr. DASCHLE. Mr. President, since 1988, I have studied the effects on family farmers of a provision in the estate tax law—section 2032A. While section 2032A may seem a minor provision to many, it is critically important to family-run farms. A problem with respect to the Internal Revenue Service's interpretation of this provision has been festering for a number of years and threatens to force the sale of many family farms.

Section 2032A, which bases the estate tax applicable to a family farm on its...
use as a farm, rather than on its market value, reflects the intent of Congress to help families keep their farms. A family that worked hard to maintain a farm should not have to sell it to a third party solely to pay stiff estate taxes resulting from increases in the value of the land. Under section 2032A, inheriting family members are required to continue farming the property for 10 years. In certain cases, that would avoid having the IRS “recapture” the tax savings.

At the time section 2032A was enacted, it was common practice for one or more family members to cash lease the farm from the other members of the family. This practice made sense where one family member was more involved than the other family members in the day-to-day farming of the land. Typically, however, the other family members would continue to be at risk as to the value of the farm and to participate in decisions affecting the farm’s operation. Cash leasing among family members remained a common practice after the enactment of section 2032A. An inheriting child would cash lease from his or her siblings, with no reason to expect disqualified from the statute or otherwise than the cash leasing arrangement might jeopardize the farm’s qualification for special use valuation.

Based at least in part on some language that I am told was included in a joint Committee on Taxation publication in early 1992, the Internal Revenue Service has taken the position that cash leasing among family members will disqualify the farm for special use valuation. The matter has since been the subject of numerous audits and some litigation, though potentially hundreds of family farmers may yet be unaware of the change of events. Cases continue to arise under this provision.

In 1988, Congress provided partial clarification of this issue for surviving spouses who cash lease to their children. Due to revenue concerns, however, it was made clear that the situation where surviving children cash lease among themselves.

My concern is that many families in which inheriting children or other family members have cash leased to each other may not even be aware of the IRS’s position on this issue. At some time in the future, they are going to be audited and find themselves liable for enormous amounts in taxes, interest and penalties. For those who cash leased in the late 1970s, this could be devastating because the taxes they owe are based on the inflated land values that existed at that time.

A case that arose in my State of South Dakota illustrates the unfairness and devastating impact of the IRS interpretation of section 2032A. Janet and Craig Kretschmar, who lives with his husband, Craig, in Cresbard, SD, inherited her mother’s farm along with her two sisters in 1980. Because the property would continue to be farmed by the family members, estate taxes were paid on it pursuant to section 2032A, saving over $50,000 in estate tax.

Janet and Craig continued to farm the land and have primary responsibility for its day-to-day operation. They set up a simple and straightforward arrangement with the other two sisters whereby Janet and Craig would lease the sisters’ interests from them.

Seven years later, the IRS told the Kretschmars that the cash lease arrangement disqualified the property for special use valuation and that they owed $54,000 to the IRS. According to the IRS, this amount represented estate tax that was being “recaptured” as a result of the disqualification. This came as an enormous surprise to the Kretschmars, as they had never been notified of the change in interpretation of the law and had no reason to believe that their arrangement would no longer be held valid by the IRS for purposes of qualifying for special use valuation. The fact is that, if they had known this, they would have organized their affairs in one of several other acceptable, though more complicated, ways.

For many years, I have sought inclusion in tax legislation of a provision that would clarify that cash leasing among family members will not disqualify the property for special use valuation. In 1992, such a provision was successfully included in H.R. 11, the Revenue Act of 1992 and passed by Congress. Unfortunately, H.R. 11 was subsequently vetoed.

Today, I am introducing a bill the language of which is identical to the section 2032A measure that was passed in the Revenue Act of 1992. I am joined in this effort by my two colleagues from North Dakota, Senators Dorgan and Conrad, whose background and expertise on tax issues are well known, as well as by my distinguished colleagues Senators Kasasebaum and Baucus.

I must emphasize that there may be many other agricultural operations in states where families are cash leasing the family farm among other unware that the IRS could come knocking at their door at any minute. I urge my colleagues in the Senate who may have such cases in their State to work with us and support this important clarification of the law.

I intend to request the Joint Committee on Taxation to estimate the revenue impact of this proposal. At an appropriate time thereafter, I will recommend any necessary offsets over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full 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. 105
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
standard mileage rate for charitable use of one's vehicle. Thus, the standard charitable mileage rate remains today at 12 cents per mile.

The legislation I am introducing, which is identical to bills I have introduced in previous Congresses on this matter, would address this inconsistency in a systematic way. First, it would allow an individual to increase the standard charitable mileage expense deduction rate to 16 cents per mile. This would restore the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate.

Second, the legislation would give the Secretary of the Treasury the authority to make subsequent increases in the charitable mileage rate without further permission from Congress, just as it currently does with the mileage rate for business use of a vehicle. The intent of this provision of the legislation is to ensure that, as increases are made in the future to the standard business mileage rate, the charitable mileage deduction will be increased, as well, to maintain the ratio that existed between these two mileage rates in 1984.

In 1993, the Joint Committee on Taxation estimated the cost of this proposal at $327 million over a five-year period. This amount is not insignificant despite the merits of this measure. Therefore, at an appropriate time, I intend to recommend offsets for the proposal over a ten-year period as required by the Budget Act.

Mr. President, many charitable organizations today are being forced to take on a greater burden than ever before, due to cut-backs, especially in the 1980s, in federal programs for veterans, the elderly and other groups in need. As a result, these organizations must increasingly rely on volunteer assistance to provide the services that are central to their tax-exempt purposes. If we can do no more, at the very least we in Congress should ensure that helpful measures remaining in the law are not allowed to erode.

On behalf of volunteers of every stripe, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the full 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. 107

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

SECTION 1. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) In General. Subsection (i) of section 170 of the Internal Revenue Code of 1986 (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

"(i) Standard Mileage Rate For Use of Passenger Automobile.—

"(1) General Rule.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of passenger automobile the standard mileage rate shall be 16 cents per mile.

"(2) TAXABLE YEARS BEGINNING AFTER 1992.—Not later than December 15, 1992, and each subsequent year, the Secretary may prescribe an increase in the standard mileage rate allowed under this section with respect to taxable years beginning in that calendar year.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE:

S. 107. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for charitable use of certain loggers; to the Committee on Finance.

The TRAVEL EXPENSE DEDUCTION FOR CERTAIN LOGGERS ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation in my continuing effort to address what I feel is an unfair ruling by the Internal Revenue Service that severely affects a certain segment of American workers. It is a situation where pure tax policy simply is not practical in its application to everyday life.

In my home state of South Dakota, the Black Hills National Forest spreads over some 6,000 square miles. Many of my colleagues may be familiar with it. In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs and haul or "skid" them to the trucks on which they are carried to the mill. These workers—known as "cutters" and "skidders," and the contractors who employ them, are collectively referred to as "loggers."

For a logger, traveling to work every day is very different from the experience of the average commuter. Loggers often travel as much as a couple of hours one way to the site where cutting is taking place. This may involve driving along miles of unpaved forest roads. It is impossible for them to live closer to their work site, not only because of the rough terrain, the IRS has said, but also because that site may change from month to month. In addition, loggers must have vehicles that are capable of traversing rough forest terrain.

Despite the number of miles the loggers must travel to work each day on the rough terrain, the IRS has said that their expenses of traveling from home to the work site and back again are non-deductible commuting expenses. This is true regardless of the location of the work site within the forest or its distance from the individual logger's home. For, according to the IRS, the entire 6,000-square-mile forest is the loggers' "tax home" or "regular place of business" for purposes of deducting mileage expenses.

Despite this harsh rule, the effect of the rule on loggers in the Black Hills is unfair. It imposes a hardship on them and fails to recognize the special circumstances of their jobs. True, other taxpayers are not permitted to deduct commuting mileage expenses. But other taxpayers are not forced to travel such long distances to and from work each day or to drive along dirt forest roads. Indeed, several loggers who challenged the IRS on this issue initially won their cases, only to be overturned on appeal.

To rectify this situation, I introduced legislation in the 102d and 103d Congresses that would have allowed loggers, in the Black Hills or elsewhere, to deduct their mileage expenses incurred while traveling between their homes and the cutting site, so long as the mileage is legitimately related to their business. Although that measure was not included in tax legislation last year primarily due to revenue concerns, in the 102d Congress, a provision requiring the U.S. Department of the Treasury to study the issue was passed in H.R. 1, the Revenue Act of 1992, which ultimately was vetoed.

Today I am reintroducing the bill that I introduced previously allowing loggers to deduct their mileage expenses incurred while traveling between their homes and the cutting site. I urge my colleagues, particularly those who have loggers in their state, to take a close look at it. Some may see it as a small matter in the scheme of what we do here in the Senate, but it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

Finally, I recognize that there will be some cost associated with this measure, and, at the appropriate time, I intend to recommend offsets to cover the cost of the measure over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full 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. 107

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

SECTION 1. DEDUCTION FOR TRAVEL EXPENSES OF CERTAIN LOGGERS.

(a) In General.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) SPECIAL TRAVEL EXPENSE RULES FOR LOGGERS.—

"(1) Trade or Business of Logging.—For purposes of this section, the term 'trade or business of logging' means the trade or business of cutting and skidding timber.

"(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.
By Mr. DASCHLE (for himself and Mr. JEFFORDS):

S. 108. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.


Mr. DASCHLE. Mr. President, today I am introducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators CONRAD, DORGAN, PRESSLER, GRASSLEY, BAUCUS, BURNS and HARKIN.

A couple summers ago, Midwestern States suffered severe floods, which devastated lives and property along these states rivers and shorelines. President Clinton responded by providing disaster assistance, $2.5 billion, including $1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must voluntarily sell livestock due to flood conditions are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. DORGAN, Mr. PRESSLER, Mr. GRASSLEY, Mr. BAUCUS, Mr. BURNS and Mr. HARKIN):

S. 109. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Finance.


Mr. DASCHLE. Mr. President, today I am introducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators CONRAD, DORGAN, PRESSLER, GRASSLEY, BAUCUS, BURNS and HARKIN.

A couple summers ago, Midwestern States suffered severe floods, which devastated lives and property along these states rivers and shorelines. President Clinton responded by providing disaster assistance, $2.5 billion, including $1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must voluntarily sell livestock due to flood conditions are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

For no apparent reason, the two provisions dealing with livestock do not
mention the situation where livestock is involuntarily sold due to flooding. Thus, floods and flood conditions do not trigger the benefits of those provisions. Yet, many livestock producers during the recent floods had no choice but to sell livestock because floods had destroyed crops needed to feed the livestock. Fences for containing livestock were washed out, or other similar circumstances had occurred.

Our proposal would expand the availability of the existing livestock tax provisions to include involuntary conversions of livestock due to flooding and other weather-related conditions. This would conform the treatment of crops and livestock in this respect.

A provision similar to our bill was passed by Congress as part of the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed. Let me emphasize that the tax provisions we are dealing with here affect the timing of tax payments, not forgiveness of tax liability. Nonetheless, I intend to work with the Joint Committee on Taxation to prepare an estimate of the cost of this measure. At the appropriate time after that estimate is completed, I will recommend offsets over a 10-year period as required by the Budget Act.

We should not shut out some farmers—livestock producers—from the disaster-related provisions of the Tax Code simply because the natural disaster involved was a flood, instead of a drought. That just doesn't make sense, and I urge my colleagues to give this bill favorable consideration.

Mr. President, I ask 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. 109

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

SECTION 1. GENERAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) DETERMINATION OF INCOME INCLUSION.—Subsection (a) of section 451 of the Internal Revenue Code of 1986 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by inserting “drought conditions”, and that these drought conditions” in paragraph (1) and inserting “drought, flood, or other weather-related conditions, and that such conditions”; and

(2) by inserting “, FLOOD, OR OTHER WEATHER-RELATED CONDITIONS” after “DROUGHT” in the subsection heading;

(b) INOVERTURAL CONVERSIONS.—Subsection (e) of section 103 of such code (relating to livestock sold on account of drought) is amended—

(1) by inserting “, flood, or other weather-related conditions” before the period at the end thereof; and

(2) by inserting “, FLOOD, OR OTHER WEATHER-RELATED CONDITIONS” after “DROUGHT” in the subsection heading;

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1994.

By Mr. DASCHLE (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. BRAXUS, Mr. BAUCUS, Mr. PRESSLER, Mr. CONRAD, Mr. BURNS, and Mr. DORGAN):

S. 110. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or the following year; to the Committee on Finance.

THE TAX TREATMENT OF CROP DISASTER ASSISTANCE ACT OF 1995

Mr. DASCHLE, Mr. President, I am introducing legislation today to address concerns expressed by farmers who have experienced drought. That just doesn't make sense, and I joined my distinguished colleagues Senators GRASSLEY, HARKIN, BRAXUS, BAUCUS, PRESSLER, CONRAD, BURNS, and DORGAN.

Last year, a number of my colleagues in the Senate and I, as well as many members of the House of Representatives, introduced similar legislation to address a concern arising out of disasters payments received after the 1993 flooding. While it may be too late to rectify this problem for some of the farmers who received those payments, this legislation would provide them the option to go back and amend their 1993 returns. Moreover, the measure is prospective, as it is nonetheless important to ensure fairness to farmers who suffer crop damage as a result of future disasters.

The legislation would make a permanent change to the Tax Code and impact farmers who receive disaster payments as a result of losses sustained from natural disasters. Due to any number of factors, farmers may not receive disaster assistance payments until the year following the disaster. This may have serious tax consequences for them if they normally would have recognized the income from the crops that were destroyed in the year of the disaster. Receipt of the disaster payment in the following year may prevent them from reporting it as income in the later year's return. This, in turn, will result in a “bunching” of income in the later year, possibly pushing them into a higher tax bracket than would otherwise be the case. It may also cause them to lose the benefits of personnel exemptions and certain nonbusiness itemized deductions.

Ironically, Internal Revenue Code section 451(d) permits a farmer who happened to receive his disaster payment in, for example, 1993 to defer recognition of that income for tax purposes until 1994, if that is the year in which he otherwise would have recognized the income from the crops that were destroyed. But it does not allow a farmer who did not actually receive the payment in 1993 to recognize the income for tax purposes until 1994, if that is the year in which he normally would have received the income.

The legislation we are introducing today would simply permit section 451(d) to operate in either direction, so long as the farmer recognizes the disaster payment in the year in which he would otherwise have recognized the income from the crops that were destroyed.

Let me emphasize again that the change made by this legislation would apply to future disasters and disaster payments, not just those arising out of the 1993 flooding. Last year, the Joint Committee on Taxation estimated the cost of this proposal at $9 million over a 6-year period. At the appropriate time, I intend to recommend offsets covering the cost over a 10-year period as required by the Budget Act.

Mr. President, there is no reason why the Tax Code should allow flexibility for farmers who want to recognize disaster payments in the year following the disaster, but not for those who receive their payments in the latter year and want to recognize them as income in the year of the disaster. In either case, the farmer would be required to show that he would have received the income from the destroyed crops in the year he is choosing to report the disaster assistance income. Without this two way rule, we will be imposing significant financial burdens on the very people we seek to help in passing disaster assistance legislation.

I would also like to make clear that no one is pointing fingers here. The fact is that this situation can arise circumstantially, without fault on anyone's part. The timing of the disaster, the volume of applicants for disaster assistance, and many other factors could result in farmers receiving disaster assistance payments the year after the disaster. This situation was bound to arise sooner or later, and it makes sense to correct it as soon as possible for those who are affected.

It is my intention to pursue passage of this measure at the earliest opportunity this year. I hope my colleagues will join me by supporting it.

Mr. President, I ask that a copy of this legislation be printed in the Record.

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

S. 110

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

SECTION 1. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) of the Internal Revenue Code of 1986 (relating to special rules for crop insurance proceeds and disaster payments) is amended to read as follows:

“(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

(1) in general.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to treat each payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer’s practice,
income from such crops involved would have been reported in a taxable year or the year following such year.

“(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage to crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer’s practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

“(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph—

“(A) is insurance proceeds received on account of destruction or damage to crops, or

“(B) is disaster assistance received under any Federal law as a result of—

“(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

“(ii) inability to plant crops because of such a disaster.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1993.

S. 111. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

THE TAX TREATMENT OF SELF-EMPLOYED HEALTH INSURANCE COSTS ACT OF 1995

Mr. DASCHLE. Mr. President, I have long been aware of an inequity imposed on small businesses in our Federal Tax Code. Our tax system discriminates against small businesses by denying the self-employed a full deduction for the expenses they incur to obtain health insurance for themselves and their families.

Corporations may deduct 100 percent of the costs of providing health insurance for their employees, but the self-employed, whether they operate as sole proprietors, partnerships, or as corporations, can deduct only 25 percent of the cost of health insurance for themselves and their families. Furthermore, the 25 percent deduction has been extended on a piecemeal basis only and last expired on December 31, 1993. Unless we reinstate the deduction, the self-employed, most of whom are hard-working middle-income taxpayers, will have to shoulder the full cost of their health insurance or forgo health insurance altogether.

The importance of the deduction has grown substantially in recent years due to tremendous increases in health care costs generally. The annual double-digit increases in health care costs have far outstripped the rate of inflation and have led to similar increases in the cost of health insurance. Corporations, which frequently are in a better position to absorb cost increases, may fully deduct the higher insurance expenses, while the self-employed must pay these costs with after-tax dollars. In some cases, this may mean forfeiting health insurance altogether.

Last year, Congress attempted to pass comprehensive health care legislation which could have resolved this inequity on a permanent basis. Many of us deeply regretted the failure of health care reform efforts last year. The self-employed health insurance deduction was one of the many casualties of that failure.

I remain committed to passing a health reform bill and hope my colleagues in the majority will join me in this effort. But, regardless of the successes or the failures of that effort, I think it is time we put the self-employed on an equal footing with corporations.

I am reintroducing today legislation I have offered in past Congresses that would establish a full 100 percent deduction for health insurance costs paid by the self-employed. In addition, this legislation, which is identical to the bills I introduced previously, would make the deduction permanent, as it is for corporations. If this bill is enacted, the self-employed no longer will have to worry each year that their deduction for health insurance costs may be completely eliminated.

My distinguished colleagues Senators Breaux, Campbell, Glenn, Harkin, Johnson, and Pryor have joined me in introducing this legislation.

The cost of this measure is not insignificant, and I intend to work with my colleagues in the Senate who favor extension and expansion of the deduction to find an appropriate and adequate offset elsewhere in the budget to cover the cost of this measure over the 10-year period required under the Budget Act.

Of course, consideration of this measure should in no way diminish the importance of or divert our attention away from the ultimate goal of reforming our health care system. Only through such reforms can we hope to rein in skyrocketing health care costs and provide health security to families that currently cannot afford insurance or live with fear of incurring losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, not to the benefitting or remuneration to the Cooperative. This exemption is now set forth in section 501(c)(12) of the Internal Revenue Code.

I am joined by my distinguished colleagues Senators Grassley, Harkin, Conrad, and Dorgan.

This legislation is identical to a bill I introduced in the 103rd Congress and to a measure that was included in the Revenue Act of 1992, which ultimately was vetoed.

Congress has always understood that tax exemption is necessary to ensure that reliable, local long distance service is available in rural America at a cost that is affordable to the rural consumer. Telephone cooperative non-profit entities that provide this service where it might otherwise not exist owing to the high cost of reaching remote, sparsely populated areas.

The facilities of a telephone cooperative are used to provide both local and long distance communications services. Perhaps the most important of these services for rural users is local service. Without these services, both local and long distance, people in rural areas could not communicate with their own neighbors, much less with the world. While telephone cooperative comprise only a small fraction of the U.S. telephone industry—about 1 percent—their services are vitally important to those who must rely upon them.

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, not to the benefitting of the Cooperative's gross income may come from non-member sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain
categories of income are deemed neither member nor non-member income and are excluded from the calculation. The reason for the 85 percent test is to ensure that cooperatives do not abuse their tax-exempt status.

A Technical Advice Memorandum (TAM) released by the Internal Revenue Service (IRS) three years ago sets the stage to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority could lose their tax-exempt status.

Specifically, the IRS now appears to take the position that all fees received by telephone cooperatives from long-distance companies for use of the local lines must be excluded from the 85 percent test and that fees received for billing and collection services performed by cooperatives on behalf of long-distance companies constitute non-member income to the cooperative.

I am introducing today would clarify that access revenues paid by long-distance companies to telephone cooperatives are to be counted as member revenues, so long as they are related to long-distance calls paid for by members of the cooperative. In addition, the legislation would indicate that billing and collection fees are to be excluded entirely from the 85 percent test calculation.

Mr. President, it is not secret that the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances more effectively than ever before. Technology in this area has advanced at an incredible pace. But, before. Technology in this area has advanced at an incredible pace. But, in today, we have the ability to bridge distances more effectively than ever before.

Mr. President, it is not secret that rural is the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances more effectively than ever before. Technology in this area has advanced at an incredible pace. But, maintaining and upgrading the rural telecommunications infrastructure is an exceedingly expensive proposition, and we must do all we can to encourage the development.

Ensuring that telephone cooperatives may retain their legitimate tax-exempt status is one vital step we can take. I believe that providing access to customers for long distance and billing and collecting for those calls on behalf of the cooperative's members and the long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives have come a long way since 1916, and neither should the formula upon which they rely to obtain tax-exempt status.

In the 103d Congress, the Joint Committee on Taxation estimated the cost of this legislation to be $59 million over a 5-year period. At the appropriate time, I will recommend appropriate offsets to cover the cost of this measure over the 10-year period required under the Budget Act.

Mr. President, I ask 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:

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By Mr. DASCHLE:

S. 112. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c)(12) of such Code (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking 'or' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting 'or', and by adding at the end the following new clause: "(v) from billing and collection services performed for a nonmember telephone company."

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma at the end of "(iv)" other than income described in subparagraph (E)."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1994.

S. 113. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

THE CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

Mr. DASCHLE. Mr. President, I am introducing legislation that would expand the current inventory charitable donation rule to include Indian tribes. This proposal is short and simple.

Under current law, companies may obtain a special charitable donation tax deduction under Internal Revenue Code Section 170(e)(3) for contributing their excess inventory to "the ill, the needy, or like." While not limited to the food industry, these charitable donations are used by food processing companies whose excess food inventories otherwise would spoil. Indian tribes have had difficulty obtaining these donations, however, because of an ambiguity in the law as to whether or not donor companies may deduct donations to organizations on Indian reservations.

The current language in Section 170(e)(3) requires charitable donations of excess inventory to be made to organizations that are described in Section 501(c)(3) of the Code and exempt from taxation under Section 501(a). While Indian tribes are exempt from taxation, they are not among the organizations described in Section 501(c)(3). Accordingly, it is not clear that a direct donation of excess inventory to an Indian tribe would qualify for the charitable donation deduction under Section 170(e)(3).

Ironically, the Indian Tribal Government Tax Status Act found in Section 7871 provides that an Indian tribal government shall be treated as a state for purposes of determining tax deductibility of charitable contributions made pursuant to Section 170. Unfortunately, the Act does not expressly extend to donations made under Section 170(e)(3) because that provision technically does not include states as eligible donees, either.
Mr. President, it is well documented that Native Americans, like other citizens, may meet the qualifications for this special charitable donation. No one would argue that it is not within the intent of Section 170(e)(3) to allow contributions to Native American organizations to qualify for the special charitable donation deduction in that section of the code. The bill I am introducing today simply would allow those contributions to qualify for the deduction. By allowing companies to make qualified contributions to Indian tribes under Section 170(e)(3), the bill would clearly further the intended purpose of both Internal Revenue Code Section 170(e)(3) and the Indian Tribal Government Tax Status Act.

The appropriateness of the measure is exhibited by the fact that it was included in the Revenue Act of 1992 (H.R. 11), which, unfortunately, was vetoed. Moreover, at the time it was passed, the measure was supported on policy grounds by the Joint Committee on Taxation and the Finance Committee staffs. Finally, in 1994, the Joint Committee on Taxation estimated that the proposal would have only a negligible effect on Treasury Receipts.

I strongly encourage my colleagues to take a close look at this bill and consider supporting this worthy and reasonable measure.

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

The bill having no objection the bill was ordered to be printed in the RECORD as follows:

S. 113

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to a special rule for certain contributions of inventory or other property) is amended by adding at the end the following new subparagraph:

``(D) Special rule for Indian tribes.—

(i) In general.—An Indian tribe (as defined in section 170(c)(3)(B)) shall be treated as an organization eligible to be a donee under subparagraph (A).

(ii) Use of property.—For purposes of subparagraph (D), the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government, such use shall be treated as related to the purpose or function constituting the basis for the organization’s exemption.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mrs. BOXER:

S. 114. A bill to authorize the Securities and Exchange Commission to require greater disclosure by municipalities that issue securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The Municipal Securities Disclosure Act of 1995

Mrs. BOXER. Mr. President, I am introducing today The Municipal Securities Disclosure Act of 1995. This bill would give the Securities and Exchange Commission (SEC) the authority to require registration and disclosure by municipalities that issue securities. This bill will ensure that municipal securities investors are provided with more complete and comprehensive information about their municipalities and their interests and obligations. The recent events in Orange County underscore the importance of providing municipal bond purchasers with this complete and comprehensive information.

Municipal securities are currently exempt from the registration and disclosure requirements of the Securities Act of 1933 and the Exchange Act of 1934. Because of these regulatory exemptions, disclosure by issuers of municipal securities is voluntary. The quality and scope of information that is provided to municipal securities investors depends on the judgment of the issuing municipality. As a result, the information varies enormously in extent and detail—from municipalities that provide comprehensive documents revealing information about the issuer, its revenue sources, the use of the funds raised, and the characteristics of the bonds being issued, to those that offer only limited and sketchy information.

Municipal issuers are also not subject to any continuing disclosure requirements. As circumstances change or situations develop that are not reflected in the initial offering, issuers have no obligation to disclose the information to the market. Again, this limits the ability of investors to acquire necessary information to allow them to make intelligent and informed investment decisions.

Complete and comprehensive disclosure is especially important for individual and smaller investors, who now represent a large and growing segment of municipal bond owners. Banks, insurance companies, and other institutions once were the primary holders of municipal bonds. Today, households—both directly and through mutual funds—account for the largest ownership share of any investor group in the market. The growing importance of individuals in this market and their inevitable reliance on the recommendations of municipal dealers underscores the need for broad and detailed information so that these investors can make sound judgments about their municipal securities purchases.

Complete and comprehensive disclosure is also important as new and more complex forms of municipal securities become more common. Investors in these more complex instruments need continuing and complete information in order to monitor and manage their interests in these securities.

Corporations must register with the SEC and comply with a range of disclosure obligations. They must disclose detailed information about the company’s business, management, debts and assets. A company must disclose information about its other securities and information about legal proceedings in which it may be involved. A company must also meet standards for accuracy in reporting of financial data. The company’s books must be submitted to independent accountants and this information must be supplied in the formal registration filed with the SEC. This registration and disclosure regime protects investors by ensuring that the information on which they are relying to make their investment decision is accurate and comprehensive and complete.

To protect investors and ensure a sound municipal securities system, municipal issuers must be subject to a similar disclosure regime. Comprehensive and accurate disclosure by issuers on an initial and ongoing basis is critical to investors in assessing prices at the offering, in making decisions as to which bonds to buy, and in deciding when to sell.

The recent events on Orange County are an illustration of the kinds of disclosure problems that a municipal securities investor faces. It is unclear whether purchasers of bonds issued by Orange County or other governmental entities who had invested in the Orange County investment fund knew of the fact that the Orange County investment fund was experiencing serious losses. It is not clear whether they knew of the fund’s investments in complex derivatives. It is not clear whether the fund or the investors’ redemption strategy were disclosed. What is clear is that the SEC was not given the opportunity to review offerings before sale to the public in order to raise appropriate questions or solicit more information.

The Municipal Securities Disclosure Act of 1995 would give the SEC the flexibility and authority to require registration by municipal issuers and disclosure of relevant information. This legislation does not dictate what municipalities must disclose, but rather, it grants the SEC the power to be employed with the proper and appropriate scope.

The goal is more information. More information about the issuers of municipal securities will allow investors to better evaluate the value of their securities and the possible risks. More information will protect issuers by assuring that investors can better ensure a safe and sound municipal securities market.

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. 114

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 “Municipal Securities Disclosure Act of 1995”.

January 4, 1995
SEC. 2. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) Exemption Authority.—Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) is amended by striking subsection (d) and inserting the following:

"(d) The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add municipal securities to the classes of securities exempt from the application of any provision of this title, if the Commission finds that the enforcement of such provision with respect to such securities is not necessary in the public interest and for the protection of investors.".


(1) in subparagraph (A)—

(A) by striking clause (ii) and

(B) by striking clause (ii);

(2) in subparagraph (B)—

(B) by redesignating clauses (iii) through (vii) as clauses (ii) through (v) respectively, and

(3) in subparagraph (C)—

(C) by striking clause (ii).

SEC. 3. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES ACT OF 1933.

(a) Repeal of Exemption for Municipal Securities.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended in the first sentence—

(1) by striking "or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories"; and

(2) by striking "or any security which is an industrial! and all that follows through "does not apply to such security".

(b) Exemption Authority To Exempt.—Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end the following new subsection:

"(d) Exemption Authority. The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add municipal securities to the classes of securities exempt from the application of any provision of this title, if the Commission finds that the enforcement of such provision with respect to such securities is not necessary in the public interest and for the protection of investors.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall become effective 6 months after the date of enactment of this Act.

SEC. 5. FUNDING.

There are authorized to be appropriated to the Securities and Exchange Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. WARNER (for himself and Mr. ROBB):

S. 115. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, today I rise to reintroduce legislation which would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of the Colonial National Historical Park. While this bill passed the Senate in the 102d Congress and passed the House in the 103d Congress, it was not considered by the Senate prior to the October adjournment.

This bill would authorize the Secretary of the Interior to convey land or interests in land and sewer lines, buildings, and equipment used for sewer system purposes to the County of York, VA, and to authorize the necessary funding to rehabilitate the Moore House sewer system to meet current Federal standards.

The necessity for this legislation is evident based on the growing needs of the county and the limitations of the National Park Service's ability to continue to provide sewer services to the local community.

In 1948 and 1956 Congress passed legislation which directed the National Park Service to design and construct sewer systems to serve Federal and non-Federal lands in the area near Yorktown, VA. In 1956, the National Park Service acquired easements from the Board of Supervisors of York County and the town trustees of the Town of York. At that time York County was a rural area with limited financing and population.

Now, York County has a fully functioning Department of Environmental Services which operates sewer systems throughout York County.

York County has the personnel, the expertise, and the equipment to better administer, maintain, and operate the sewer system than National Park Service staff. Negotiations to transfer the Yorktown and Moore House systems have been ongoing since the 1970's when York County took over operation of the Yorktown system through written agreement between York County and the National Park Service and a grant of approximately $73,500 to improve the Yorktown system.

The purpose of this legislation is to fulfill the commitments made between the Park Service and York County to provide for the full transfer of ownership to York County.

By Mr. WELLSTONE:

S. 116. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a 100 percent public financing for candidates' expenses, and for other purposes; to the Committee on Rules and Administration.

Mr. WELLSTONE. Mr. President, as the 104th Congress begins today, I am reintroducing two key pieces of reform legislation that I had pushed hard to pass during the 103d Congress. The first is a bill which I believe should serve as a benchmark for profound and far-reaching reform of the way we finance our election campaigns here in Congress. According to the Federal
Election Commission, House and Senate candidates spent a record $589.5 million on their 1994 campaigns through November 28. Final totals for the 1994 elections will be available next month, and are expected to be much higher. This out-of-control spending must be controlled, and thorough reform of the Federal law is the only way to do it. The second initiative I am introducing is my bill to ban gifts, meals, lobbyist-sponsored vacation travel, and other perks to Members of Congress and staffers, which was killed at the end of last year by a Republican- led filibuster. I intend to work with Senator Levin and others to make sure that the lobbying and gift ban bill is enacted into law as a part of the Congressional Accountability Act to be considered by the Senate later this week.

This year’s election returns sent a signal to Congress loud and clear: Americans want us to clean up the political system, and rid it of the influence of special interests. They have seen that these huge amounts of money and special interest perks have an effect on the decisionmaking process here in Washington, because they give special access and undue influence to those who can afford it. This power has been wielded and well used to try to influence legislation to benefit those who donate to Members of Congress directly. They continue to have grave and justifiable concerns about the rules under which we finance campaigns, and are demanding that we do something to radically reform this system. My campaign reform bill is an attempt to finally address that concern.

I have been frustrated that for so many years real campaign reform has been killed in this body by those who prefer the status quo. Last year, even the modest reform package that had already been agreed to, which was less far-reaching than my bill, was killed by a Republican filibuster in the final days of the session. Tough, sweeping reforms are needed if we are to begin to restore the confidence Americans have in the legislative process. We ought to enact it this year.

In addition to real campaign reform, another means of special interest influence must be curbed, and that is the giving of gifts, lobbyist-sponsored vacation travel, and other perks to Members of Congress by lobbyists and others. That is why I am re-introducing today tough, comprehensive gift ban legislation similar to the bill I introduced last year which was killed by a Republican filibuster in the final days of the session. Tough, sweeping reforms are needed if we are to begin to restore the confidence Americans have in the legislative process. We ought to enact it this year.

Whatever the ostensible Republican arguments were against the underlying lobby registration bill, one thing is clear—the gift provisions which I have long fought for should now have the support of virtually every Member of this body, since almost all of us have already voted for these same restrictions. In fact, as I said, Majority Leader Dole, Senators McCollum, Stevens, and 35 others on the now-majority cosponsored virtually identical gift ban bill, when they saw that the tough, comprehensive, Democratically sponsored bill that had come out of a bipartisan House-Senate conference included the gift ban provisions for which we had pushed so hard.

Whatever the ostensible Republican arguments were against the underlying lobby registration bill, one thing is clear—the gift provisions which I have long fought for should now have the support of virtually every Member of this body, since almost all of us have already voted for these same restrictions. In fact, as I said, Majority Leader Dole, Senators McCollum, Stevens, and 35 others on the now-majority cosponsored virtually identical gift ban bill, when they saw that the tough, comprehensive, Democratically sponsored bill that had come out of a bipartisan House-Senate conference included the gift ban provisions for which we had pushed so hard.

While I had hoped for even more far-reaching reforms than were contained in that compromise proposal, I was pleased and angry that those who had presented themselves to the American people as reformers of the political system were able to block real reform in the form of campaign finance reform legislation—and to get away with it. Let us make one thing crystal clear more than any of the institutional changes being proposed—some cosmetic, some real—in congressional caucuses, committees, congressional staff, and the like, efforts to combat special interest influence in the form of real campaign finance and lobby reform are what would really change the way business is done here in Washington.

But these reforms are being resisted by the Republican congressional leadership; in fact they apparently will be opposed. They will refuse to accept these immediate steps to limit the influence of wealthy special interests in the legislative process. This year, while the new majority leader and others in the House Republican leadership have made it clear that campaign finance reform is not on their agenda for this Congress, I want to make it equally clear that it will be at the top of the Democratic agenda. They have said political reform is off the table. I am going to ensure it gets back on the table—and stays there.

That is why today I am reintroducing the Senate Fair Elections and Grassroots Democracy Act of 1995, legislation which I believe should serve as a benchmark for true campaign finance reform for U.S. Senate campaigns.

This bill has one goal in mind: to develop legislation designed to address the central ethical issue of politics in our time—the way in which big money special interests have come to dominate governmental decision-making. Last year’s election continued the trend of vast amounts of
on soft money, plus free broadcast time, reduced mail rates for eligible candidates, and prohibitions of contributions from certain lobbyists—all within a comprehensive system of voluntary public financing of primary and general Senate campaigns patterned after the Presidential system. I believe these elements are key to true reform.

This is the best time in two decades for fundamental reform, despite Republican attempts to sweep these much-needed changes under the rug. We must restore the basic democratic principle of one person, one vote by enacting true campaign finance reform and ban outright the practice of Members of Congress being lavished with gifts and other perks and special favors from lobbyists. I urge my colleagues to support these bills. I ask unanimous consent that summaries of my comprehensive campaign finance reform bill, and of the lobbyist gift ban provisions from last year's conference report after which my bill is patterned, be printed in the RECORD at the end of my statement, and in addition, that a copy of a letter from Fred Wertheimer, executive director of Common Cause, to all Members of the Senate urging the prompt passage of these important reforms in both the House and the Senate be printed because I think it speaks to all of us about the need for strong campaign reform and lobbyist gift ban legislation. I ask further unanimous consent that a copy of my gift rule amendment, and the copy of my gift ban bill be printed in the RECORD following my statement.

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

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS. (a) SHORT TITLE.—This Act may be cited as the “Senate Fair Elections and Grassroots Democracy Act of 1995.” (b) AMENDMENT OF FECA.—When used in this Act, the term “FECA” means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—Sec. 1. Short title; amendment of Campaign Act; table of contents.

Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.

Sec. 102. Ban on activities of political action committees in Federal election campaigns.

Sec. 103. Reporting requirements.

Sec. 104. Disclosure by noneligible committees.

Sec. 105. Federal broadcast time.

Subtitle B—General Provisions

Sec. 131. Extension of reduced third-class mailing rates to eligible Senate candidates.

Sec. 132. Reporting requirements for certain independent expenditures.

Sec. 133. Campaign advertising amendments.

Sec. 134. Definitions.

Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.

Subtitle A—Personal Loans; Credits

Sec. 301. Personal contributions and loans.

Sec. 302. Extensions of credits.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Contributions to political party committees for grassroots Federal election campaign activities.

Sec. 312. Provisions relating to national, State, and local party committees.

Sec. 313. Restrictions on fundraising by candidates and officeholders.

Sec. 314. Reporting requirements.

Sec. 315. Limitations on combined political activities of political committees of political parties.

TITLE III—CONTRIBUTIONS

Sec. 401. Reduction of contribution limits.

Sec. 402. Contributions through intermediaries and conduits; prohibition of certain contributions by lobbyists.

Sec. 403. Contributions by dependents not of voting age.

Sec. 404. Contributions to candidates from State and local committees of political parties to be aggregated.

Sec. 405. Limited exclusion of advances by campaign workers from the definition of the term “contribution.”

TITLE IV—PRESIDENTIAL DEBATES

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.

Sec. 502. Personal and consulting services.

Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.

Sec. 504. Computerized indices of contributions.

TITLE V—REPORTING REQUIREMENTS

Sec. 601. Findings and purposes.

Sec. 602. Presidential and vice presidential candidate debates.

TITLE VI—MICROSOFT DEBATES

Sec. 701. Prohibition of leadership committees.

Sec. 702. Polling data contributed to candidates.

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.

Sec. 802. Sense of the Senate regarding funding of presidential election campaign fund.

Sec. 803. Severability.

Sec. 804. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of
money constitutes a fundamental flaw in the current campaign finance system, it has undermined public respect for the Congress as an institution and has given large private contributors undue influence with respect to public policy before the Congress;

(3) the failure to limit campaign expenditures has driven up the cost of election campaigns and made it difficult for qualified candidates with personal fortunes or access to large contributors to mount competitive congressional campaigns;

(4) the failure to limit campaign expenditures has enabled candidates elected by the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(5) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;

(6) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures; and

(7) serious and thoroughgoing reform of Federal election law that imposes strict new rules and regulations on the behavior of candidates and political committees would—

(A) help eliminate access to wealth as a determinant of a citizen's influence in the political process;

(B) as a result, restore meaning to the principle of "one person, one vote";

(C) produce more competitive Federal elections; and

(D) halt and reverse the escalating cost of Federal elections.

(b) NECESSITY FOR PROHIBITION OF POLITICAL COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and have contributed open to charges of corruption;

(2) contributions by political action committees to individual candidates have undermined the Senate as an institution, and fail to comply with all of the requirements of this Act that apply to eligible candidates; and

(3) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to ban participation by political action committees in Federal elections.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual organization that is not a candidate or a candidate's authorized committee and that has been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's campaign expenditure.

(d) PROVIDING SUBSTANTIAL PUBLIC FINANCING FOR SENATE ELECTIONS.—The Senate finds and declares that the re- placement of private public campaign contributions with partial or complete public financing for Senate elections would enhance American democracy by eliminating real and potential conflicts of interest and increasing the accountability of Members of Congress, thereby helping to restore public confidence in the fairness of the electoral and policymaking processes.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN EXPENDITURES

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

TITLE V—EXPENDITURE LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

SEC. 501. ELIGIBILITY.

(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if—

(1) the candidate and the candidate's authorized committees meet the threshold contribution and ballot access requirements of subsection (b);

(2) the candidate and the candidate's authorized committees do not exceed the personal funds expenditure limit or the general election expenditure limit except as permitted under section 502(e);

(3) the candidate and the candidate's authorized committees have not made expenditures in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit except as permitted under section 502(e);

(4) the candidate and the candidate's authorized committees do not accept contributions for the same general election ballot for a primary election, runoff election, or general election; and

(5) the candidate's authorized committees do not accept contributions from any individual during the applicable period to the extent that such contributions exceed $1,000;

(b) P RIMARY ELECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURES同時に and the candidate's authorized committees shall not exceed the primary election expenditure limit except as permitted under section 503.

(c) GENERAL EXEMPTIONS.

(1) the candidate and the candidate's authorized committees do not make expenditures attributable to presidential public campaigns; and

(2) the candidate and the candidate's authorized committees do not accept contributions from any individual during the applicable period to the extent that such contributions exceed $1,000; and

(d) P RIMARY ELECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURES同時に and the candidate's authorized committees shall not exceed the primary election expenditure limit except as permitted under section 503.

(e) R UNOFF ECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURES同時に and the candidate's authorized committees shall not exceed the runoff election expenditure limit except as permitted under section 503.

(f) G ENERAL ELECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURES同時に and the candidate's authorized committees shall not exceed the general election expenditure limit except as permitted under section 503.

(g) CANDIDATE AND COMMITTEE EXPENDITURES.

(1) the candidate and the candidate's authorized committees do not accept contributions from any individual during the applicable period to the extent that such contributions exceed $1,000; and

(h) P RIMARY ELECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURES同時に and the candidate's authorized committees shall not exceed the primary election expenditure limit except as permitted under section 503.

(i) R UNOFF ECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURE LIMITS synonymous and the candidate's authorized committees shall not exceed the runoff election expenditure limit except as permitted under section 503.

(j) G ENERAL ELECTION EXPENDITURE LIMITS.

(1) I N GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees to the candidate's immediate family.

(2) CANDIDATE AND COMMITTEE EXPENDITURE LIMITS synonymous and the candidate's authorized committees shall not exceed the general election expenditure limit except as permitted under section 503.
(2) the amount determined under subparagraph (A) if—

(i) during the primary election period, an independent expenditure amount under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may be made from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit;

(ii) the amount made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election contribution limit applicable to an eligible Senate candidate; and

(iii) the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit applicable to the candidate; or

(iv) any opposing candidate in the primary election, runoff election, or general election, respectively, made by reason of subparagraph (A) may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.

(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—

(1) MULTICANDIDATE POLITICAL COMMITTEE PRIMARY ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee primary election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee runoff election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

(3) PERIODS WHEN PROVISIONS ARE IN EFFECT.—This subsection and other provisions in this title relating to multicandidate political committees shall be of no effect except during any period for which the prohibition under section 324 is not in effect.

(g) INDEXING.—The $2,500,000 amount under subsection (b)(2) and the amount otherwise determined under subsection (d)(2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of those provisions, the base period shall be calendar year 1995.

(h) EXPENDITURES.—For purposes of this title, the term ‘expenditure’ has the meaning stated in section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate’s authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

SEC. 503. BENEFITS.

(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

(I) free broadcast time under title VI;

(II) the mailing rates provided in section 3626(e) of title 39, United States Code; and

(III) payments in the amounts determined under subchapter II of chapter 3 of title 39, United States Code,

(2) MULTICANDIDATE POLITICAL COMMITTEE PRIMARY ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee primary election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee runoff election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

SEC. 504. CONTRIBUTIONS.

(a) IN GENERAL.—An eligible Senate candidate or committee—

(i) any opposing candidate in the primary election, runoff election, or general election, respectively, made by reason of subparagraph (A) may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.

(ii) any opposing candidate in the primary election, runoff election, or general election, respectively, made by reason of subparagraph (A) may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.
the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the runoff election spending limit, the amount less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election, and the runoff election spending limit, the amount less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the primary election, runoff election, and the general election expenditure limit, respectively.

(ii) during the primary election period, an amount equal to the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election, and the primary election expenditure limit; and

(iii) during the general election period, an amount equal to 50 percent of the general election expenditure limit, the amount less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election.

(3) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the primary election period, runoff election period, or general election period, respectively, by 1 or more persons in opposition to, or on behalf of an opponent over the primary election expenditures to further the primary election, runoff election, or general election, respectively, from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit, the amount less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the primary election, runoff election, and the general election expenditure limit, respectively.

(4) EXCESS EXPENDITURE AMOUNT.—For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

(A) in the case of an eligible Senate candidate of major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the sum of—

(i) if the excess equals or exceeds 133 1/3 percent of the primary election expenditure limit, or the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit, respectively,

(ii) if the excess equals or exceeds 133 1/3 percent of the primary election expenditure limit, or the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

(iii) if the excess equals or exceeds 133 1/3 percent of the primary election expenditure limit, the runoff election spending limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit, an amount equal to one-third of such limit plus

(B) in the case of an eligible Senate candidate who is not a major party candidate—

(i) during the primary election period, an amount equal to the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election, and the primary election expenditure limit; and

(ii) during the runoff election period, an amount equal to the aggregate amount of $100 or less, up to 50 percent of the runoff election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election, and the runoff election expenditure limit; and

(iii) during the general election period, an amount equal to 50 percent of the general election expenditure limit, the amount less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election.
election expenditure limit, runoff election expenditure, or general election expenditure limit by 25 percent or less shall pay an amount equal to the amount of the excess expenditures.

``SEC. 506. CRIMINAL PENALTIES.``

``(a) A CCEPTANCE OR USE OF BENEFITS EXPENDITURES IN EXCESS OF LIMITS.—``

``(1) OFFENSE.—No person shall knowingly and willfully—``

``(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;``

``(B) use such benefits for any purpose not described in subsection (a), petition the courts to certify the election results, institute actions and proceedings, verify, or cause to be verified, any evidence, books, or information relevant to a certification by the Commission;``

``(C) offer, pay, give, or deliver any kickback or any illegal payment in connection with any benefits received under this title;``

``(D) offer, pay, give, or deliver any kickback or any illegal payment in connection with any benefits received under this title by an eligible Senate candidate.``

``(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.``

``(d) LARGE AMOUNT OF EXCESS EXPENDITURES.—``

``(A) Offense.—A person who, knowing that a person has knowingly and willfully—``

``(i) violate paragraph (1) of subsection (a) or (b); or``

``(ii) exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by 5 percent or more shall pay an amount equal to 3 times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.``

``(B) In addition to the penalty provided by subparagraph (A), a person who accepts any kickback or any illegal payment in connection with any benefits received under this title shall be fined not more than $10,000, imprisoned not more than 5 years, or both.``

``(e) APPLICATION OF TITLE 5. Chapter 7 of title 5, United States Code, shall apply to judicial review of any action by the Commission for purposes of this title. ``

``SEC. 507. JUDICIAL REVIEW.``

``(a) APPEARANCES. The Commission may appear in the courts of the United States a special fund to be known as the Senate Election Campaign Fund and the balance in any account maintained the Fund.``

``(b) PAYMENTS UPON CERTIFICATION. Upon certification by the Commission of the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate—``

``(1) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and``

``(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate.``

``(c) ACCOUNTS. The Secretary shall maintain such accounts in the Fund as may be necessary to carry out the provisions of this title.``

``(d) PAYMENTS UPON CERTIFICATION. Upon receiving a certification under section 504, the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.``
SEC. 304A. CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(i) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).

(ii) such contributions received by any political committee which is established or financed pursuant to section 324 of such Act, shall be increased by the product of the amount of such contributions and 20 percent of the sum of the general election expenditure limit under paragraph (3) of such Act and the primary election expenditure limit under section 301(b) of such Act. If the total of such contributions exceeds 133 1/3 percent of such limit, such candidate shall file additional reports with the Secretary of the Senate within 1 business day after each contribution received by such candidate in excess of such amount.

(iii) such contributions are not greater than the excess (if any) of—

(A) contributions received by any political committee which is established or financed pursuant to section 324 of such Act, or

(B) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).

SEC. 305. REPORTING REQUIREMENTS OF POLITICAL COMMITTEES IN FEDERAL ELECTIONS.—(a) In general.—(i) such contributions received by a political committee shall be included in the amount of contributions received by such political committee from such candidate for the election in excess of the applicable general election expenditure limit.

(ii) such contributions received by any political committee which is established or financed pursuant to section 324 of such Act, shall be increased by the product of the amount of such contributions and 20 percent of the sum of the general election expenditure limit under paragraph (3) of such Act and the primary election expenditure limit under section 301(b) of such Act. If the total of such contributions exceeds 133 1/3 percent of such limit, such candidate shall file additional reports with the Secretary of the Senate within 1 business day after each contribution received by such candidate in excess of such amount.

(iii) such contributions are not greater than the excess (if any) of—

(A) contributions received by any political committee which is established or financed pursuant to section 324 of such Act, or

(B) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).

(c) EFFECTIVE DATES.—(1) except as provided in paragraph (2), the amendments made by this section shall apply to elections occurring after December 31, 1995.若如此，当选后，按照以下方式处理：

(i) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).

(ii) such contributions received by any political committee which is established or financed pursuant to section 324 of such Act, shall be increased by the product of the amount of such contributions and 20 percent of the sum of the general election expenditure limit under paragraph (3) of such Act and the primary election expenditure limit under section 301(b) of such Act. If the total of such contributions exceeds 133 1/3 percent of such limit, such candidate shall file additional reports with the Secretary of the Senate within 1 business day after each contribution received by such candidate in excess of such amount.

(iii) such contributions are not greater than the excess (if any) of—

(A) contributions received by any political committee which is established or financed pursuant to section 324 of such Act, or

(B) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).

(c) EFFECTIVE DATES.—(1) except as provided in paragraph (2), the amendments made by this section shall apply to elections occurring after December 31, 1995.

(ii) such contributions received by any political committee which is established or financed pursuant to section 324 of such Act, shall be increased by the product of the amount of such contributions and 20 percent of the sum of the general election expenditure limit under paragraph (3) of such Act and the primary election expenditure limit under section 301(b) of such Act. If the total of such contributions exceeds 133 1/3 percent of such limit, such candidate shall file additional reports with the Secretary of the Senate within 1 business day after each contribution received by such candidate in excess of such amount.

(iii) such contributions are not greater than the excess (if any) of—

(A) contributions received by any political committee which is established or financed pursuant to section 324 of such Act, or

(B) contributions made or received on or after the date of qualification for the general election involving a candidate for the office of United States Senator under section 502(b), shall file a report with the Secretary of the Senate withing 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election). If the filing of such a report is required in subsection (d), such candidate shall, on not later than 2 business days after the date of qualification for the general election, file such a report with the Secretary of the Senate, and the filing of such a report shall be in lieu of the filing of the report that is otherwise required to be filed after the date of qualification for the general election under subsection (d), if the filing of such a report is required under subsection (d).
general election expenditure limit under section 311(a)(5).

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES. -

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end the following:

"(a) CANDIDATE REPORTS TO THE COMMISSION.—An eligible Senate candidate that uses free broadcast time under section 602 shall include with the candidate's post-general election report under section 304(a)(2)(A)(ii) or, in the case of a special election, with the candidate's first report under section 304(a)(2) filed after the special election, a statement for the most recent general election period, or the most recent special election period, whichever is applicable, date for the general election period or special election period.

(b) COMMISSION REPORTS TO CONGRESS.—The Commission shall submit to Congress, not later than January 1 of each year that follows a year in which a general election for a Senate candidate is held, a report on the amount of free broadcast time used by eligible Senate candidates under section 602.

SEC. 604. JUDICIAL PROCEEDINGS.

(a) IN GENERAL.—The Commission may appear in any action filed under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and title III of chapter 53 of title 5.

(b) ENFORCEMENT.—At its own instance or on the complaint of any person, and whether or not proceedings have been commenced or pending under this title, the Commission may petition a district court of the United States for declaratory or injunctive relief concerning any civil matter arising under this title, through attorneys and counsel described in subsection (a).

(c) APPEALS.—The Commission may, on behalf of the United States, appeal, and petitions for the Supreme Court of the United States for certiorari to review, a judgment or decree entered with respect to an action in which it appeared pursuant to this section.

Subtitle B—General Provisions

SEC. 131. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 306(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "and the National" and inserting "the National";

(B) by striking "Committee," and inserting "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;"

(2) in paragraph (2)(B), by striking "and" after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting "; and;"

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971;";

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State of the Senate candidate in the general election period from his personal funds, or loans incurred.

The Commission shall make available at no charge, to eligible Senate candidates under section 602, the following new section:

"FREE BROADCAST TIME FOR ELIGIBLE SENATE CANDIDATES

SEC. 315A. (a) IN GENERAL.—In addition to broadcast time that a licensee makes available to a candidate under section 315(a), a licensee shall make available at no charge, to each eligible Senate candidate in each State within its broadcast area, 30 minutes of broadcast time during a primary time access period (as defined in section 601 of the Federal Election Campaign Act of 1971).

(b) APPEALS.—The Secretary of the Senate shall serve such reports and filings in the same manner as the Commission under section 313(a), and shall preserve such reports and filings in the same manner as the Commission under section 313(a).

(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".
amended—

(3) in paragraph (2), by striking out the un-
designated matter after subparagraph (C); and
(4) by inserting a period at the end of paragraph (3).

SEC. 133. CAMPAIGN ADVERTISING AMEND-
MENT.

Section 318 of FECA (2 U.S.C. 443d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";
(2) in the matter before paragraph (1) of subsection (b)(3), by striking "direct";
(3) in paragraph (1)(B)(iii) of this section, by inserting "name the following" and perman-
tent street address"; and
(4) by adding at the end the following new sub-
section of this section:

``(c) Any printed communication described in subsection (a) shall be—
"(1) of sufficient type size to be clearly readable by the recipient of the communica-
tion;
"(2) contained in a printed box set apart from the other contents of the communic-
aion; and
"(3) consist of a reasonable degree of color contrast between the back and the front of the printed statement.
"(d)(1) Any broadcast or cablecast commun-
ication described in subsection (a) shall include, in addition to the requirements of subsection (a)(3), an au-
dible statement by the candidate that identifies the candidate and states that the candidate has approved the communica-
tion.
"(2) If a broadcast or cablecast commun-
ication described in subsection (a) is broad-
cast or cablecast by means of television, the statement required by paragraph (1) shall—
"(A) appear in the communication in a clearly readable manner with a rea-
sonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and
"(B) be accompanied by a clearly identifiable pho-
tographic or similar image of the candidate.
"(e) Any broadcast or cablecast commun-
ication described in subsection (a) shall include, in addition to the requirements of subsection (a), a clearly spoken man-
ner, the following statement—
"is responsible for the content of this advertisement.'
with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of an organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.'

SEC. 134. DEFINITIONS.

(a) In General.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new para-
graphs:

``(19) The term `general election' means an election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

(b) In General.—Sections 315(e), 324, and 325 are amended by striking "an expenditure" and inserting "a disbursement".

(c) The term `general election period' means, with respect to any candidate, the period beginning on the day after the date of the last primary election for the spe-
cific office for which the candidate seeks and ending on the date of the next general election for such office.

(d) The term `general election expenditure limit' means the limit applicable to an eligible candidate under section 502(b).

SEC. 135. PARTISAN CAMPAIGN EXPENDITURES.

(a) In General.—Section 306(b) of FECA (2 U.S.C. 436b) is amended by striking paragraph (6) and inserting the following new para-
graphs:

``(6) A broadcast or cablecast commun-
ication described in subsection (a) shall be—
"(1) of sufficient type size to be clearly readable by the recipient of the communica-
tion;
"(2) contained in a printed box set apart from the other contents of the communica-
tion; and
"(3) consist of a reasonable degree of color contrast between the back and the front of the printed statement.
"(7) The Secretary of the Senate shall 
transmit a copy of the report to each can-
didate whom the expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 work-
ing hours after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall trans-
mit the report to each can-
didate seeking nomination or election to that office.

(b) In General.—Section 306(b) of FECA (2 U.S.C. 436b) is amended by striking paragraph (6) and inserting the following new para-
graphs:

``(6) A broadcast or cablecast commun-
ication described in subsection (a) shall be—
"(1) of sufficient type size to be clearly readable by the recipient of the communica-
tion;
"(2) contained in a printed box set apart from the other contents of the communica-
tion; and
"(3) consist of a reasonable degree of color contrast between the back and the front of the printed statement.
"(7) The Secretary of the Senate shall 
transmit a copy of the report to each can-
didate whom the expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 work-
ing hours after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall trans-
mit the report to each can-
didate seeking nomination or election to that office.

(c) In General.—Section 306(b) of FECA (2 U.S.C. 436b) is amended by striking paragraph (6) and inserting the following new para-
graphs:

``(6) A broadcast or cablecast commun-
ication described in subsection (a) shall be—
"(1) of sufficient type size to be clearly readable by the recipient of the communica-
tion;
"(2) contained in a printed box set apart from the other contents of the communica-
tion; and
"(3) consist of a reasonable degree of color contrast between the back and the front of the printed statement.
"(7) The Secretary of the Senate shall 
transmit a copy of the report to each can-
didate whom the expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 work-
ing hours after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall trans-
mit the report to each can-
didate seeking nomination or election to that office.

SEC. 136. TERMINOLOGY.

(a) In General.—Section 306(b) of FECA (2 U.S.C. 436b) is amended by striking paragraph (6) and inserting the following new para-
graphs:

``(6) A broadcast or cablecast commun-
ication described in subsection (a) shall be—
"(1) of sufficient type size to be clearly readable by the recipient of the communica-
tion;
"(2) contained in a printed box set apart from the other contents of the communica-
tion; and
"(3) consist of a reasonable degree of color contrast between the back and the front of the printed statement.
"(7) The Secretary of the Senate shall 
transmit a copy of the report to each can-
didate whom the expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 work-
ing hours after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall trans-
mit the report to each can-
didate seeking nomination or election to that office.
reads as follows:

"SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES FOR GRASSROOTS FEDERAL ELECTION CAMPAIGN ACTIVITIES.

(a) IN GENERAL.—Section 315(a)(1)(C) of FECA (2 U.S.C. 441a(a)(1)(C)) is amended by striking "$5,000." and inserting "$5,000, plus $5,000 contributed by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made without regard to this paragraph.''

(b) CONTRIBUTION AND EXPENDITURE LIMITATIONS.—Section 310(b)(8) of FECA (2 U.S.C. 431(b)(8)) is amended by adding at the end the following new clause:

"(C) an activity that is (i) is generic campaign activity or that identifies a specific candidate, to a specific group of individuals, or to a specific group of issues; or (ii) is for the purpose of influencing the outcome of a Federal election under a regulation issued by the Commission.'"
(2) Section 303(9)(B) of FECA (2 U.S.C. 433(9)(B)) is amended by repealing clauses (vii) and (ix).

(c) Soft Money of Committees of Political Parties.—(1) Title III of FECA, as amended by section 102(a), is amended by inserting after section 324 the following new section:

"SEC. 325. (a) Any amount solicited, received, or expended by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee is a contribution to, or on behalf of, the State or local candidate committee, and shall be treated as if it were received, or expended, directly from a State or local candidate committee.

"(b) Any amount solicited, received, or expended by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee is a contribution to, or on behalf of, the State or local candidate committee, and shall be treated as if it were received, or expended, directly from a State or local candidate committee.

"(2) A political committee (not described in section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 102(a)), is amended by adding at the end the following new subsection:

"(i) A local committee of a political party shall only include a committee that is a political committee (as defined in section 333(4)) and (ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.

"(3) Section 304(5)(A) of FECA (2 U.S.C. 433(4)) is amended by adding at the end the following new subsection:

"(i) A local committee of a political party shall only include a committee that is a political committee (as defined in section 333(4)) and (ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.

"(4) For purposes of this subsection, the term 'Federal election period' means the period beginning on January 1 of any even-numbered calendar year; and

"(b) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

(c) Solicitation by Committees.—A congressional or Senatorial Campaign Committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) Amounts Received from State and Local Candidate Committees.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as if received directly from a State or local candidate committee.

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition by as to source or dollar amount, and

"(B) the State or local candidate committee

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether the requirements of this Act are met, and

"(ii) certifies to the other committee that such requirements were met.

"(2) Notwithstanding paragraph (1), any committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to any limit applicable to such contribution from such candidate committee.

"(3) For purposes of this subsection, a State or local candidate committee is a committee established, maintained, controlled, or otherwise permitted by State law.

"(D) For purposes of this paragraph—

"(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 333(4)) and

"(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.

"(4) For purposes of this subsection, any political committee (including any subsidiary committee) for any calendar year shall not exceed the dollar amount in effect under subsection (a) of title 5, United States Code.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office, or

"(B) holds a position described in level I of the Executive Schedule under section 332 of title 5, United States Code.

"(6) Tax-Exempt Organizations.—Section 315 of FECA (2 U.S.C. 441a(4)), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(i) A tax-exempt organization shall only include a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(7) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office, or

"(B) holds a position described in level I of the Executive Schedule under section 332 of title 5, United States Code.

"(8) Political Committees.—The national committee of a political party and any congressional campaign committee, and any individual who is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

Section 313. Restrictions on Fundraising by Candidates and Officeholders.

(a) State Fundraising Activities.—Section 315 of FECA (2 U.S.C. 441a(4)), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(K) Limitations on Fundraising Activities of Federal Candidates and Officeholders.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee (as determined under section 325) and the payments for combined activities under 326.
"(3) Any political committee to which paragraph (1) or (2) does not apply shall report receipts or disbursements which are used in connection with a Federal election or for combined activities.

"(4) Any report or disbursement to which this subsection applies exceeds $50, the political committee shall include identification of the person from whom, or to whom, such report or disbursement was made.

"(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a), and all such contributions in excess of $50 shall be reported.

"(c) REPORTING OF EXEMPT EXPENDITURES.—Sec. 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end the following:

"(b) REPORT OF EXEMPT CONTRIBUTIONS.—Sec. 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)) is amended by inserting the following:

"The exclusions provided in clauses (v) and (vi) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $50 shall be reported.

"(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Sec. 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following:

"the definition of `contribution' or `expenditure' subject to the limitations and prohibitions of this Act, as provided for in this section.

"(2) National party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal and non-Federal elections.

"(3) State and local party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal and non-Federal elections.

"(D) The costs of activities subject to limitation under section 315(a) or (d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(b) For purposes of this section—

"(1) the term combined political activity means any activity of a political committee to which paragraph (4) or (ii) of section 301a (A) or (B) as defined in section 301a (A) or (B).

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of `contribution' or `expenditure' subject to limitation under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are subject to the limitations of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activity that urges the general public to register, vote for or support State and local candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific Federal candidate;

"(C) fundraising activities where both Federal and non-Federal candidates are solicited,

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 308(b)(v).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot, compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this Act, the following offices shall be counted, if on the ballot during the next election cycle:

"(a) Sections 326(a)(7) of FECA (2 U.S.C. 434a(a)(7)) is amended by adding to the end the following:

"The contributions made directly or indirectly by a person to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(b) For purposes of this subsection—

"(1) the term combined political activity means any activity of a political committee to which paragraph (4) or (ii) of section 301a (A) or (B) as defined in section 301a (A) or (B).

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of `contribution' or `expenditure' subject to limitation under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are subject to the limitations of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activity that urges the general public to register, vote for or support State and local candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific Federal candidate;

"(C) fundraising activities where both Federal and non-Federal candidates are solicited,

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 308(b)(v).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot, compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this Act, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot in the majority of the State's counties during the next election cycle.

"(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be devoted to a Federal candidate.
Section 405. Limited Exclusion of Advances by Political Parties to Be Aggregated.

(a) In general.—Section 315(a) of FECA (2 U.S.C. 441a) is amended by adding at the end the following new paragraph:

"(5) The term `lobbyist' means—"

(b) Conforming Amendment.—Section 313(a)(5) of FECA (2 U.S.C. 441a)(5) is amended—

(1) by adding "and" at the end of subparagraph (A); (2) by striking subparagraph (B); and (3) by redesignating subparagraph (C) as subparagraph (B).

Section 405. Limited Exclusion of Advances by Campaign Workers from the Definition of the Term `Contribution'.

Section 301(l)(8) of FECA (2 U.S.C. 431(l)(8)) is amended—

(1) in clause (xiii), by striking "and" after the semicolon at the end of clause (xii); and (2) in clause (xiv), by striking the period at the end and inserting ";" and "and"; and (3) by adding at the end the following new clause:

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of the legislative branch official before whom the lobbyist has appeared or with whom the lobbyist has made a lobbying contact, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

"(2) A lobbyist who makes a contribution to or solicits a contribution on behalf of a legislative branch official shall not, before or make a lobbying contact with that legislative branch official, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

(c) Definitions.—Section 303(a)(9) of FECA (2 U.S.C. 441a(a)), as amended by section 312(d), is amended by adding at the end the following new paragraph:

"(9) The term `lobbyist' means—"

(a) a person required to register under section 303 of the Federal Regulation of Lobbying Act (2 U.S.C. 308) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(b) a person required under any other law to register as a lobbyist (as the term `lobbyist' may be defined in any such law); and

(c) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

(2) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

(3) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate, other than soliciting contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

(4) Soliciting contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

(5) The term `contributions made or arranged to be made' includes—

(A) contributions delivered to a particular candidate or the candidate's authorized committee or agent;

(B) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting;

(C) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting;

(D) soliciting contributions;

(E) soliciting contributions by directly or indirectly arranging the making of a contribution to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; or

(F) by soliciting contributions by directly or indirectly arranging the making of a contribution to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

(6) A lobbyist shall not make a contribution to or solicit a contribution on behalf of a legislative branch official before whom the lobbyist has appeared or with whom the lobbyist has made a lobbying contact, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

(7) A lobbyist who makes a contribution to or solicits a contribution on behalf of a legislative branch official shall not, before or make a lobbying contact with that legislative branch official, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

(8) The term `contributions made or arranged to be made' includes—

(A) contributions made or arranged to be made directly to a candidate or a representative of a political party within the meaning of section 303(4) acting on their own behalf or solicited.

(B) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

(C) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

(III) made by a public official acting in an official capacity;

(IV) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

(V) made by a speaker, article, publica-

tion, or other material that is widely distribu-

ted to the public or through the media;

(VI) a request for an appointment, a re-

quest for information, a request for a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

(VII) solicitation of participation in an advisory committee subject to the Fed-

eral Advisory Committee Act (5 U.S.C. App.);

(VIII) a written comment filed in a public

record, or disclosures pursuant to a whistle-

blower statute.

(9) The term `lobbyist' means—

(A) a person required to register under section 303 of the Federal Regulation of Lobbying Act (2 U.S.C. 308) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(B) a person required under any other law to register as a lobbyist (as the term `lobbyist' may be defined in any such law); and

(C) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

(10) The term `representative' means an employee of any organization that receives such compensation.

(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

(III) made by a speaker, article, publica-

tion, or other material that is widely distribu-

ted to the public or through the media;

(IV) a request for an appointment, a re-

quest for information, a request for a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

(V) solicitation of participation in an advisory committee subject to the Fed-

eral Advisory Committee Act (5 U.S.C. App.);

(VI) a written comment filed in a public

record, or disclosures pursuant to a whistle-

blower statute.

(10) The term `representative' means an employee of any organization that receives such compensation.

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quest for information, a request for a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

(V) solicitation of participation in an advisory committee subject to the Fed-

eral Advisory Committee Act (5 U.S.C. App.);

(VI) a written comment filed in a public

record, or disclosures pursuant to a whistle-

blower statute.

(10) The term `representative' means an employee of any organization that receives such compensation.
of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the aggregate value of advances made to any one individual committee shall not exceed $500 with respect to an election.".

TITLE V—REPORTING REQUIREMENTS

SECTION 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraph (7) of section 304(b) of the Federal Election Act of 1971 (2 U.S.C. 434(b)(7)) as amended by a provision inserted after "calendar year" each place it appears in the following: (election cycle, in the case of a joint fundraising committee of a candidate for Federal office).

SECTION 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of the Federal Election Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: 

A candidate for office shall be reimbursed by the committee, except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed.

SECTION 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.


SECTION 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of the Federal Election Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9); and

(2) by adding the following new subsections—

"(I) maintain computerized indices of contributions of $50 or more.".

TITLE VI—PRESIDENTIAL DEBATES

SECTION 601. FINDINGS AND PURPOSES.

(1) American voters are increasingly frustrated by the lack of significant presidential debate in presidential elections in the United States, and voting participation in the United States is lower than in any other advanced industrialized country, due in part to such frustration;

(2) the right of eligible citizens to participate in the election process as informed voters, provided in and derived from the first and fourteenth amendments to the Constitution, has consistently been protected and promoted by the Federal Government;

(3) United States presidential debates sponsored by nonpartisan organizations offer important fora for open, free, and substantive exchanges of candidates' ideas, and should include all significant candidates, including non-major and independent candidates; and

(4) throughout United States history, significant minor party and independent candidates have been a source for new ideas and new programs, offering American voters an opportunity to engage in a diverse and open political discourse on critical issues of the day.

(2) PURPOSES. The purposes of this title are to make participation in presidential debates authorized by the Federal Election Campaign Act of 1971 (2 U.S.C. 434) and the provisions of this Act take effect on the date of enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1994.

SECTION 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Act of 1971 (2 U.S.C. 432(e)) as amended—

"(1) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains books of account with respect to its functions as a principal campaign committee; and

"(2) a candidate may designate a political committee or joint fundraising committee, but only if that political committee or joint fundraising committee is designated by the candidate as an authorized committee.

"(B) As used in this paragraph, the term 'supporting political committee' does not include any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(C) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. All contributions that any such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 527(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions in excess of $250 to candidates for elective office.

SECTION 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(b) of the Federal Election Act of 1971 (2 U.S.C. 438(b)) as amended by section 34(b), is amended by inserting at the end the following new paragraph:

"(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made."

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SECTION 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, all amendments made by the provisions of this Act shall take effect on the date of enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1994.

SECTION 802. SENSE OF THE SENATE REGARDING FUNDING OF SENATE CAMPAIGN CANDIDATE DEBATES.

It is the sense of the Senate that—

"(1) the current Presidential checkoff should be increased to $5,00, its designation changed to the 'Federal Senate Campaign Checkoff'; and individuals should be permitted to contribute an additional $5,00 to the fund in additional taxes if they so desire; or

"(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to encourage and increase participation in the 'Federal Senate Campaign Checkoff';

"(3) funds to pay for the increase in the checkoff to $5,00 should come from the repeal of the tax deduction for business lobbying activity.

SECTION 803. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including
and elimination of tax deduction for lobbying of candidates. Thus, a candidate must raise more than 5% of general election revenue from 25% of a broadcast consisting of other candidates within broadcast area, in segments of at least 15 min. within a 24-hr. period and no more than 25% of a broadcast consisting of other candidates within state. Reduced Postal Rate—1 mailing per eligi- ble voter during general election period, at lowest non-profit third-class rate. Eligibility threshold for benefits—candidate must report 5% of general election limit in amounts of $100 or less (at least 60% within state). 

BUNDLING

Prohibits bundling by all PACs; parties; unions, corporation, trade associations, and national banks; partnerships or sole propri- etors; and lobbyists.

Prohibits lobbyists from contributing funds to, or soliciting funds from Members of Congress if they have lobbied those Members or their staff within the last twelve months.

INDEPENDENT EXPENDITURES

Tightens definition to ensure proper dis- crimination of independent candidates; augments disclosure and disclaimer requirements.

CONFERENCE REPORT ON GIFTS PORTION OF LOBBYING DISCLOSURE BILL (AS COMPARED TO SENATE-PASSSED BILL)

The conference report on gifts to Members, officers and employees of Congress is the same as the Senate-passed bill on gifts, S. 193, with a few exceptions as shown in italic. As with the Senate bill, gifts are prohibited except as described below.

FROM LOBBYISTS

Food/refreshments of nominal value not part of a meal.

Campaign contributions/attendance at fund- raising events sponsored by political organiza- tions.

Informational materials like books, videotapes.

Gifts from close personal friends and fam- ily members.

Pension/other employment benefits earned while serving as an employee of lobbying firm.

FROM NONLOBBYISTS

Food/refreshments/entertainment in Member's home state. They remain subject to current rules until and unless changed by Rules Committee.

Food/refreshments of minimal value (less than $20). Personal and family relationship. (Changed from personal friendship to personal posi- tion to cover situations where the gift is unrelated to Member's official position.) Campaign contribution/attendance at fund- raising events sponsored by political organiza- tions.

Attendance/food/refreshments/entertain- ment at widely attended events where Member is either speaking or event is related to Member's home state. They remain subject to current rules until and unless changed by Rules Committee.

Gifts from close personal friends and fam- ily members.

Pension/other employment benefits earned while serving as an employee of lobbying firm.

Soft Money

Prohibits all "soft" money in federal elec-

tion. benefices be from sources allowed by fed- eral law. Establishes Grassroots Federal Election Fund to be maintained by state political parties for grassroots political activities that benefit federal candidates exclusively. Contributions to these funds must be raised and disclosed under federal limits, and may not exceed $5,000.

VOLUNTARY CAMPAIGN EXPENDITURE LIMITS

General election period: Formula-based, from $775,000 (small states) to $4.5 million (large states).

Primary election period: 67% of general election limit in segments of at least 15 min.

Runoff election: 20% of general election limit.

Candidate's personal funds limit: $25,000.

Limits increased if opponent raises or spend more than 200% of general election limit.

INCOME TAX LIMITS

Income tax limitations apply to candidates at 33% of what they would have paid under current law.

CONGRESSIONAL RECORD Ð SENATE
should be challenged to register and vote to achieve that goal."

We agree.

As you become Speaker of the House of Representatives today, you have a unique moment in history in which to make good on your words. You have a unique opportunity to lead an effort to reform the corrupt system in Congress which you have criticized throughout your House career.

As you did in your speech before The Heritage Foundation:

"Congress is a broken system. It is increasingly a system of corruption in which money politics drive the system.

* * *

Honesty and integrity are at the heart of a free society. Corruption, special favors, dishonesty and deception corrode the very process of freedom and alienate citizens from their country."

I am enclosing other examples of statements you have made over the years about the importance of integrity in government and the need for political reform.

You and the newly elected Republicans in the House have told the country that you are committed to changing the way Washington works.

But citizens throughout this nation clearly understand that there is no way to change the way Washington works without fundamental reform of the corrupt influence money system. This requires effective campaign finance reform and a tough gift ban for Members of Congress.

In your words: "It is our first duty of our generation to reestablish integrity and a bond of honesty in the political process."

In your words, "We should punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems."

In your words, "We must insure that citizens in politics and government and pass reform laws to clean up the election and lobbying systems."

In your words: "The Heritage Foundation:"

"We agree, the very process of freedom and alienate citizens from their country."

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

SECTION 1. SENATE GIFT RULE.

The text of rule XXXV of the Standing Rules of the Senate is amended as follows:

(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

(7) Food, refreshments, lodging, and other benefits—

(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, the spousal member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances.

(B) customarily provided by a prospective employer in connection with bona fide employment discussions or

(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in conjunction with a fundraising or campaign event sponsored by such an organization.

(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(11) Honoraria (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) Donations from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(13) An item of little intrinsic value such as a greeting card, baseball cap, or a T-shirt.

(14) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate or the House of Representatives.

(15) Bequests, inheritances, and other transfers at death.

(16) Any item, the receipt of which is authorized by the Federal Election Campaign Act, or the Federal Election Campaign Act, or any other statute.

(17) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(18) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

(19) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

(20) Opportunities and benefits which are—

(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic location

(B) offered to members of a group or class in which membership is unrelated to congressional employment;

(C) offered to members of an organization, such as an employees’ association or congressional credit union, in which membership is related to congressional employment
and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates against Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fee that is provided in connection with participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional affiliations.

"(2) A plaque, trophy, or other memento of modest value.

"(B) or for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the member, officer, or employee participates in the event as a speaker or a panel participant or in case there is no participation in the event relating to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member’s, officer’s, or employee’s official position; or

"(B) the member, officer, or employee who accepts an offer of free attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

"(2) A member, officer, or employee who attends an event described in clause (1) may accept an unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor’s unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term ‘free attendance’ may include waiver of all or part of a conference fee or other fee, the provision of transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees of the event.

"(B) transportation expenses reimbursed or to be reimbursed;

"(i) the name of the individual giving the gift;

"(ii) the name of the individual receiving the gift;

"(iii) the date of the gift;

"(iv) the value of the gift;

"(v) the purpose for which the gift was given;

"(vi) whether the gift was given to the individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate;

"(vii) the relationship of the individual giving the gift to the individual receiving the gift.

"(C) the history of the relationship between the individual who gave the gift and the recipient of the gift; and

"(D) if the gift is made by a client or employer of such lobbyist or foreign agent.

"(3) In determining whether the value of the gift is substantial, the Select Committee on Ethics shall consider all of the factors that it deems relevant, including:

"(i) the relationship between the individual giving the gift and the recipient of the gift; and

"(ii) whether the gift was given to an appropriate charity or destroyed.

"(4) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officer or employee of the Senate to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel;

"(A) the member, officer, or employee participating in the event as a speaker or a panel participant;

"(B) the individual giving the gift;

"(C) the history of the relationship between the individual giving the gift and the recipient of the gift; and

"(D) the date of the gift;

"(E) the value of the gift;

"(F) the purpose for which the gift was given; and

"(G) whether the gift was given to an appropriate charity or destroyed.

"(g)(1) The Committee on Rules and Administration shall adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may be deposited in an appropriate charity or destroyed.

"(4) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officer or employee of the Senate to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel.

"(A) the member, officer, or employee participating in the event as a speaker or a panel participant;

"(B) the individual giving the gift;

"(C) the history of the relationship between the individual giving the gift and the recipient of the gift; and

"(D) the date of the gift;

"(E) the value of the gift;

"(F) the purpose for which the gift was given; and

"(G) whether the gift was given to an appropriate charity or destroyed.

"(5) the term ‘lobbying firm’—

"(A) a person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity.

"(6) the term ‘lobbyist’ means a person who acts as a lobbyist on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition’s or association’s dues and assessments.

"(7) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition’s or association’s dues and assessments.

"(B) A term ‘lobbyist’ firm—

"(A) a person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity.

"(B) includes a self-employed individual who is a lobbyist.

"(8) includes a self-employed individual who is a lobbyist.

"(I) if the term ‘lobbyist’ means a person registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or

"(J) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics.

"(K) limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (I);

"(L) does not include expenditures for recreational activities, except for an event other than that provided to all attendees as an integral part of the event; and

"(M) includes travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(N) The Select Committee on Ethics shall make available to the public all advance authorizations and disclosures of reimbursements filed pursuant to subparagraph (a) as soon as possible after they are received.

"(O) include travel expenses incurred on behalf of the client or employer of such lobbyist or foreign agent.

"(P) the term ‘necessary transportation’ means transportation expenses reimbursed or to be reimbursed;
required to be registered under any successor statute.

"The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 2. MISCELLANEOUS PROVISIONS.

(a) Amendments to the Ethics in Government Act. Ð Section 102(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 302) is amended by adding at the end thereof the following: "Reimbursements deemed accepted by the Senate pursuant to Rule XXXVII of the Standing Rules of the Senate shall be reported as required by such rule and need not be reported under this section.".

(b) Repeal of Obsolete Provision. Ð Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 312-1) is repealed.

(c) General Senate Provisions. Ð The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 3. EXERCISE OF SENATE RULEMAKING POWERS.

Sections 1 and 2(c) are enacted by the Senate as an exercise of the rulemaking power of the Senate and pursuant to section 735(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time and in the same manner as to the same matters and in the same way as in the case of any other rule of the Senate.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on May 31, 1995.

Mr. FEINGOLD. Mr. President, today I am pleased to join my colleagues, Senators LAUTENBERG and WELLSTONE, in once again introducing legislation that will fundamentally reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered by Members each year from individuals, lobbyists and special interest groups that seek special access and influence on Capitol Hill.

Last year, this body approved a strong gift ban bill by a resounding vote that would have clamped down on this outrageous perk, but would have closed the gaping loopholes that riddle our current lobbying disclosure laws. That conference report failed to pass in the closing days of the 103rd Congress, but we are introducing this bill today because we are unwilling to allow such an important and fundamental issue to be forgotten merely because we were unable to obtain final passage in the waning moments of the last Congress. This legislation is needed to help restore the lost trust that is essential in our Government, and to reverse the strong negative view of the American people toward for these institutions. We have to recognize that the American people fundamentally change the way they do business, and passing meaningful gift ban legislation would represent an important first step towards extinguishing the firestorm of cynicism and distrust that has permeated our political landscape. It would send a strong message to our constituents that we are prepared to take forceful steps to allay any perceived conflicts of interests between the acceptance of such gifts and our responsibilities as elected representatives.

Let me illustrate this point by referring to a TIME/CNN poll taken late last year. Like many polls before it, this poll showed that public approval of the performance of Congress as an institution is embarrassingly low. This poll also found that 84 percent, 84 percent of the American people believe that officials in Washington are heavily influenced by special interests and public officials accept gifts and other perks from lobbyists and corporations.

The issue here is not whether Members of Congress are indeed for sale or susceptible to pressure from special interests. We know that this is largely invalid. But it is the perception of impropriety that must be changed. We must identify what has fueled this perception, and pass reforms that will regain the lost trust and faith the American people have in their Government.

The number and types of gifts delivered to congress each day is astonishing, and frankly, we should be thankful that most of our constituents are spared the imagery that has become a frequent sight on Capitol Hill of flatbed carts moving through the hallways of Congress, stacked with gifts. Though I have adopted a strict policy for myself and my staff that prohibits the acceptance of virtually anything of value, my office has received—and declined—close to 300 gifts since I joined the U.S. Senate 2 years ago. I have had some unusual gifts come into my office, including, for the second consecutive year, a Christmas tree. It may strike some of our constituents as odd that there is a lobbying firm out there that is committed to leveling a small forest every year to provide Christmas trees to Members of Congress. But it is not only the gifts themselves that anger the American people, it is also the source of these gifts that have generated the greatest resentment among our constituents, and this is reflected in the same TIME/CNN poll I referred to earlier.

In this poll, the following question was posed: "Which one of these groups do you think have too much influence in government?". A list of choices were provided, and which groups did respondents believe have too much influence in public policy decisions? The wealthy, large corporations, foreign governments and special interest groups. The gifts that are received—and, again, that I personally decline—range from fruit baskets to artwork to fine wine—you name it. The sources of these gifts? The wealthy, large corporations, foreign representatives and special interest groups. In other words, the exact same groups cited by a majority of poll respondents as having special influence and access with the Federal Government are the exact same groups that provide most of the free gifts and meals to Members of Congress. The connection is clear, and I am convinced that if we eliminate such unnecessary gifts we can convince the American people that we are not beholden to any special interests and we can begin to break down the walls of distrust between the American people and their Government.

The bill we are introducing today will strictly prohibit the lobbying community from providing free meals, travel and entertainment to Members of Congress and their staffs. Most of these stringent rules will apply to non-insiders as well. The legislation also includes exceptions to these tight restrictions that will allow legislators and staff to carry out the day to day official responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain gifts and meals for the attendance of programs, seminars and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official responsibilities. The legislation will strictly prohibit the lobbying community from providing free gifts and meals to Members of Congress.

I am convinced that if we eliminate the free gifts and meals to Members of Congress and their staffs, the American people will begin to break down the walls of distrust that have permeated our society.

The current gift rules, which allow Members of Congress and their staff to accept gifts worth up to $250 from any one source during a year and do not include toward that limit any gifts under $100, are simply unacceptable. When the U.S. Senate first debated this issue last year, differing objections were raised to our effort to prohibit the acceptance of these gifts. Some argued that the gifts provided to Members and staff do not translate into special access and influence on the legislative process. Maybe, maybe not. But it is the mere appearance of impropriety that has so sharply tarnished the American people against this institution. Our constituents are fed up with insider special interest groups picking up the tab for a lawmaker's trip to Florida, it appears to be a clear quid pro quo arrangement. But there was another interesting argument raised during last year's debate on this issue—the argument that strict gift rules were unworkable and would hinder the work of Members and their staffs. I would ask my colleagues who genuinely believe this to look at the experience of my home State, Wisconsin.

I served for 10 years in the Wisconsin State Legislature as a State senator.
For over 20 years, the Wisconsin Legislature has lived under rules that prohibit the acceptance of anything of value, even a cup of coffee, from a lobbyist or a lobbying organization. These rules, which have had virtually no impact on that legislative body's ability to perform, have earned the State of Wisconsin a well-deserved reputation for clean government, a term that few people, unfortunately, would apply to the U.S. Congress. My experience in the Wisconsin Legislature led me 2 years ago to adopt a strict ethics policy for my U.S. Senate office that combines the most restrictive elements of the ethics policy for the Senate and the ethics rules of the Wisconsin State Legislature. Specifically, I and the individuals employed in my office cannot accept food, drink, lodging, transportation, or any item or service from a lobbyist or any item of more than a nominal value from any person offered because of public position.

Like the Wisconsin rules, there are exceptions provided that allow me and my staff to fulfill our legislative responsibilities. The exceptions, for example, the restrictions do not apply to the offering of educational or informational materials; lodging, food, or beverage offered coincidentally with the presentation of a talk or participation in a meeting, program, or conference related to official Senate business. The restrictions also do not apply to functions sponsored by, or items provided by, Federal agencies or Federal officials or diplomatic functions sponsored by foreign governments where attendance at such events is part of the individual's official responsibilities.

In short, the strict rules governing the acceptance of gifts that have been adopted by both my office and the Wisconsin Legislature have worked while allowing those abiding by them to fulfill their official obligations and responsibilities.

Acting on this legislation that will fundamentally reform the way Congress deals with the many gifts and other perks that are offered to Members each year would mark a significant change in the way Washington, DC, does business, as well as a strong first step toward restoring the voters' confidence in their elected representatives. But we need to do more than simply pass tough gift ban legislation. We need to strengthen our current lobbying disclosure laws that are riddled with gaping loopholes. We need to pass comprehensive campaign finance reform that will level the playing field between incumbents and challengers, and diminish the role of special-interest money that has threatened our democratic election system. It is my sincere hope that this body will begin this process of reform by acting on this measure at the earliest possible time. Once again, I thank my colleagues from Minnesota and New Jersey for their persistence on this issue, and I yield the floor.

By Mr. MOYNIHAN.

S. 118. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 119. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

VIOLENT CRIME REDUCTION ACT AND REAL COST OF HANDGUN AMMUNITION ACT

Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1995 and the Real Cost of Handgun Ammunition Act of 1995. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the third time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible handgun death toll in the United States continues unabated, so does the need for the kind of legislation that would keep these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates the true cost to American society. I just look at the data:

In 1993, 16,189 people were murdered by gunshot. An even greater number lost their lives to bullets by shooting themselves, either purposefully or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest they occur 2 to 5 times more frequently than death. This adds up to 184,000 bullet-related injuries per year.

Homicide is the second leading cause of death in the 15 to 34-year-old age bracket. It is the leading cause of death for black males aged 15 to 34. The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam War. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Juanita Baker and her colleagues in the book "Epidemiology and Health Policy," edited by Sol Levine and Abraham Lilienfeld:

There is a correlation between rates of private ownership of guns and gunshot-related death rates; guns cause two-thirds of family homicides; and small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death. Baker states that:

"These facets of the epidemiology of firearm fatalities have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemics that are easily concealed handguns for impetuous use by people who are angry, drunk, or frightened have rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it today misses the point. We ought to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy stopped his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1900, Walter Reed identified mosquitoes as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology successes showed the world that when epidemics require an interaction between three things: The host (the person who becomes sick or, in the case of bullets, the shooting victim); the agent (the cause of sickness, or the bullet); and the environment (the setting in which sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and death?
death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of the 20th century, it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to enquirers from the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation’s public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation is needed. We have recognized that this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal companion to the many similar programs of health research which the federal government supports.

Experience in the 1950’s and early 1960’s, prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960’s when Congress was developing the Motor Vehicle Safety Act, and I was opposed to it.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by the second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts (the car’s occupants).

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seat belts, padded dashboards, and airbags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we’ve done nothing of the sort. All of the advances that have been made in the automobile safety field have been driven by the automobile manufacturers. Likewise, we simply cannot do much to change the environment (violence behavior) in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them! At least the round used disproportionately to cause death and injury. That is, the .25 caliber, .32 caliber, and 9-millimeter bullets. These three rounds account for about 33 percent of all handgun killings. But it would have taken another 25 years to eliminate these rounds.

Mr. President, it is time to confront the epidemic of bullet-related violence. We can apply that experience to the problem, building on findings concerning the control of the epidemic of bullet-related violence.

There are some 200 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some two billion cartridges are used each year. At the current rate, there will be some 1.5 billion rounds by 1988, and household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

Water treatment efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880’s, and water chlorination treatment began in the 1900’s. The death rate from typhoid in Albany, NY, prior to 1889, when the municipal water supply was treated by sand filtration, was about 100 fatalities per 100,000 people each year. The rate dropped to about 25 typhoid deaths per year after 1889, and dropped again to about 10 typhoid deaths per year after 1915, when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will take longer than 60 years to eliminate bullet-related death and injury, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the Gun Control Act of 1968, and the experience of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

Mr. President, it is time to confront the epidemic of bullet-related violence. I urge my colleagues to support these bills and ask unanimously consent that their texts be printed in the Record.

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

Section 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be

Sec. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:
SEC. 101. INCREASE IN TAX ON CERTAIN BULLET-AMMUNITION MANUFACTURERS AND IMPORTERS.

(a) In General.—Section 4802 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new section:

"(b) Exemption for Law Enforcement Purposes.—Section 4802 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new subsection:

"(G) Law Enforcement. —The last sentence of section 4802 is amended by inserting, before the period, the following: "Surely, we cannot require that each and every firearm, a fee of $1,000 per year;''.

So that the center would have substantive information to study and analyze, the bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms (BATF) on the disposition of ammunition. Currently, importers of ammunition do not require these records.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different angles, recognizing that there is no simple solution.

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

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

S. 120

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 "Violent Crime Control Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, and particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options to help control such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets

...
(except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;
(2) to undertake a nationally coordinated effort to research, collect, inventory, synthesize, and disseminate adequate data and information for—
(A) understanding the full range of bullet-related death and injury, including its effects on the family structure and increased demands for benefit payments under provisions of the Social Security Act;
(B) to monitor the rate and magnitude of change in bullet-related death and injury over time;
(C) educating the public about the extent of bullet-related death and injury; and
(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;
(3) to develop options for controlling bullet-related death and injury;
(4) to build the capacity and encourage responsibility at the individual, group, community, and Federal levels for control and elimination of bullet-related death and injury;
(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from nonbullet-related violence.

TITLE I—BULLET DEATH AND INJURY CONTROL PROGRAM
SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control's National Center for Injury Prevention and Control (referred to as the "Center") a Bullet Death and Injury Control Program (referred to as the "Program")

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—
(1) understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;
(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;
(3) building the capacity for implementing the options for controlling the approaches to bullet-related trauma; and
(4) educating the public about the nature and impact of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—
(1) to summarize and to enhance the knowledge of the contribution, status, and characteristics of bullet-related death and injury;
(2) to conduct research and to prepare, with the assistance of State public health departments—
(A) statistics on bullet-related death and injury;
(B) studies of the epidemic nature of bullet-related death and injury; and
(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;
(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiologic information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methodology for its control;
(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury; and
(5) to provide for the conduct of epidemiologic research on bullet-related death and injury control, including the cooperatively sponsored research described in subparagraphs (A) through (D) of section 901 of the Federal Emergency Management Act of 1992 and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;
(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data and reporting for the death and injury surveillance; and
(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury; and
(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and
(9) to research and explore bullet-related death and injury surveillance and its uses.

d) ADVISORY BOARD.—
(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—
(A) 1 representative from the Centers for Disease Control;
(B) 1 representative from the Bureau of Alcohol, Tobacco, and Firearms;
(C) 1 representative from the Department of Justice;
(D) 1 member from the Drug Enforcement Agency;
(E) 3 epidemiologists from universities or nonprofit organizations; (F) 1 criminologist from a university or nonprofit organization;
(G) 1 behavioral scientist from a university or nonprofit organization;
(H) 1 physician from a university or nonprofit organization;
(I) 1 statistician from a university or nonprofit organization;
(J) 1 engineer from a university or nonprofit organization;
(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Committee who is not an officer, employee, or former officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule, as provided by section 5317 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. However, including expenses incurred in connection with attendance at meetings, each member of the Commission who are officers or employees of the United States shall serve without compensation, but may be reimbursed for expenses incurred in connection with attendance at meetings.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise reimbursed by the Federal Government service shall, to the extent necessary in furtherance of the Program, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair of the advisory board.

(f) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1997, 1998, and 1999 to carry out this section.

(h) REPORT.—The Center shall provide to each State public health department in accordance with section 5703 of title 5, United States Code, an initial report and an annual report.

(i) USE OF AMMUNITION
SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—
(1) in paragraph (1)(A) by inserting after the period the following sentence: "(not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1995.
January 4, 1995

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and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.

(b) USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1997, recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

By Mr. GRAMM:

S. 121. A bill to guarantee individuals and families continued choice and control over their doctors and hospitals, to ensure that health coverage is permanent and portable, to provide equal tax treatment for all health insurance consumers, to control medical cost inflation through medical savings accounts, to reduce the liability litigation, to reduce paperwork, and for other purposes; to the Committee on Finance.

FAMILY HEALTH CARE PRESERVATION ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that an outline of S. 121 be printed in the RECORD.

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

OUTLINE OF THE FAMILY HEALTH CARE PRESERVATION ACT

I. ENHANCE SECURITY FOR THOSE PRESENTLY INSURED BY MAKING PRIVATE INSURANCE PORTABLE AND PERMANENT:

Portability:

To enhance the capacity of American workers to change jobs without losing their health insurance coverage, existing law under COBRA (which allows individuals temporarily to continue their health insurance coverage after leaving their place of employment by paying their premiums directly) would be amended with two additional lower-cost options to keep their health insurance coverage during their transition between jobs. Workers could:

(A) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly;

(B) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a $3,000 deductible; or

(C) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a $3,000 deductible.

With these options, the typical monthly premium paid for a family of four would drop by as much as 25 percent. Use switching would be more than $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible. Also, premium payments made by families would now build an income in the manner described in title II of this bill.

In addition, individuals would be permitted to make penalty-free withdrawals from their Individual Medical Savings Accounts and use this money on a tax-free basis to pay for health insurance coverage during the transition period. The transition period of coverage would end once a person is in a position to get coverage from another employer.

Permanence:

Health insurance would be made permanent (belonging to the family or individual by these three reforms):

Those with Individual Coverage:

(A) No existing health insurance policy can be canceled by an employer toward a person covered by the policy. Insurance companies must offer each policy holder the option to purchase a new policy under the conditions stated in part B of this section with the terms to be negotiated between the buyer and seller of the policy.

(B) All individual health insurance policies written after the enactment of this legislation must be guaranteed renewable, and premiums cannot be increased based on the occurrence of illness.

Those with Group Coverage:

(A) Existing group policies must provide each member of the group the right to convert to an individual policy when leaving the group. This individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy. In addition, any group policy holder claiming (owing a $3,000 deductible; or

(C) A health care provider can negotiate an agreement with one or more private insurers to offer individuals leaving the new group plan coverage. The individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy.

(B) All group policies issued after enactment of this legislation must be permanently guaranteed renewable, and premiums cannot be increased based on the health of the members covered under the group policy. In addition, similar to part A of this section, this legislation must provide each member of the group the right to convert to an individual policy when leaving the group. However, the premium charges of the individual policies based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy.

(C) A health care provider can negotiate an agreement with one or more private insurers to offer individuals leaving the new group plan coverage. The individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of any covered by the policy.

II. PROVIDE MEANINGFUL MEDICAL LIABILITY REFORM:

(A) Any claim of negligence not "substantially justified" or which has been improperly advanced will result in a automatic judgment against the defendant rendering the defendant liable for the legal fees incurred by the health care provider, as well as any losses as a result of being away from the practice.

(B) The liability of any medical practice defendant will be limited to the proportion of damages attributable to such defendant's conduct.

(C) A health care provider can negotiate limits on medical liability with the buyer of health care in return for lower fees.

III. ENHANCE EFFICIENCY THROUGH PAPERWORK REDUCTION:

(A) S. 122. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 24. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers Account of up to $3,000 per year by either the individual or manufacturer of the imported accessory.
and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

LEGISLATION TO CONTROL DESTRUCTIVE AMMUNITION

Mr. MOYNIHAN. Mr. President, I introduced two measures to help fight the epidemic of bullet-related violence in America: the Real Cost of Destructive Ammunition Act of 1995. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Rail Road train last winter. That same month, it was also used in the shooting of Officer Jason E. White of the Department of Columbia Metropolitan Police Department, just fifteen blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E. Gallagher, Director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has “never seen a more lethal projectile.” On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corporation, the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 1031 Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that may be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon, and introduce for the first time a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed to reach the streets.

Mr. President, we are facing an unrivaled epidemic of violence in this country and it is disproportionately the result of deaths and injuries caused by bullet wounds. It is time we took meaningful steps to put an end to the massacres that occur daily as a result of gunshots. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market, and I ask unanimous consent that the bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Destructive Ammunition Prohibition Act of 1995.”

SECTION 1. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

“(D) The term ‘destructive ammunition’ means—

(1) any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

SEC. 2. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting “or destructive” after “armor piercing”; and

(2) in paragraph (8), by inserting “or destructive” after “armor piercing.”

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “Real Cost of Destructive Ammunition Act.”

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking “Shells, and cartridges” and inserting “Shells and cartridges not taxable at 10,000 percent.”

(B) by striking “Shells and cartridges” and inserting “Shells and cartridges not taxable at 10,000 percent.”

“ARTICLES TAXABLE AT 10,000 PERCENT.—

“Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile.

(2) ADDITIONS ARE TAXED TO THE GENERAL FUND.—Section 32(a) of the Act of September 2, 1937 (16 U.S.C. 666(a)), commonly referred to as the “Pittman-Robertson Wildlife Restoration Act,” is amended by adding at the end the following new sentence:

“Shells and cartridges not taxable at 10,000 percent.”

“Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile.

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(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1995.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JULY 1, 1995.—Any person engaged on July 1, 1995, in any trade or business which is subject to an occupational tax by reason of the amendment made by subsection (a) shall be treated for purposes of such tax as having first engaged in a trade of business on such date.

By Mr. MOYNIHAN (for himself and Mr. LIEBERMAN):

S. 123. A bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK EVALUATION ACT

Mr. MOYNIHAN. Mr. President, Nearly 2 years ago today I addressed the Senate about the impending “revolution” over the Nation’s approach to environmental protection. I noted that Federal environmental laws were being questioned and that State and local governments were signaling that their resources are finite and that compliance with additional environmental laws while still adequately maintaining roads and buildings and providing social services and education was fast becoming unaffordable. At least not without Federal support.

I suggested that we might better use the results of risk assessments to help set environmental priorities and make decisions, and I quoted an editorial in the January 8, 1992, issue of Science.
I called for the “growing questioning of the factual basis for Federal command and control actions” largely due to concerns over regulatory costs. I concluded that “The message is clear. State and local governments will hold the Congress and EPA more accountable in the future about obligating them to use resources for Federal requirements. They will want ‘proof’ that there is a problem and confidence that the legislated ‘solutions’ will solve it.” And finally, I noted that “the Science editorial suggests that we are seeing the beginning of a revolt.”

How quickly times change. Less than 2 years later, the revolt is fully underway. Yet just 4 months before the Science editorial appeared, my colleagues from both sides of the aisle expressed incredulity when in September 1992 I held my first hearing as chairman of the Environment and Public Works Committee on S. 2132, the “Environmental Risk Reduction Act,” a bill I introduced earlier in the 102d Congress and contend that effects are exaggerated and that many decisions are not based on science alone.

As a first step, let us freely acknowledge that environmental decisions can be informed by science, but that they cannot be made based on science alone. In fact, truth be known, such decisions are based more on policy, economic and social considerations than they are on science. This does not mean that science is not useful for environmental decisions or that we shouldn’t vigorously pursue research to better understand what contaminants are released into the environment and we are exposed to, what gets into our bodies, and what happens to it there. We spend upwards of $385 billion per year to comply with environmental regulations, and while this is not necessarily too much to spend on environmental protection, it is too much to simply casually. Better knowledge about whether effects actually occur at the very low levels encountered in the environment could help frame the debates on environmental protection more sharply.

Don’t forget that social concerns, public preference, basic fairness, and, yes, even outrage, must be considered too. But, let us make clear that health effects don’t have to occur for us to be outraged. For instance, if it were shown that habitation near a Superfund site could pose a major health risk, as a country we may still decide to clean up the site because we find the contamination to be offensive. We may decide to compensate homeowners at the site for the fair value of their land so they can move away, even if there have been no site-related health problems. Consider that we may be concerned that the economically disadvantaged people who tend to live near such sites would be further disadvantaged by loss of equity in home or by reduced property values. Such actions are not possible under the current Superfund law. As it now stands, those who favor compensation to landholders at Superfund sites must act indirectly and press for findings of health effects from the chemicals found at those sites. Nothing in the law requires that cleaning up the sites must also act indirectly and respond to findings of likely health problems by attacking the assumptions needed to assess risk and contend that effects are exaggerated. Let us see if there are no effects. No one addresses the problem realistically.

Let me note that the American public views the contract as being full of fresh new ideas and approaches to governing, promising they believe the Democrats have lost the ability to generate in the recent past. But let us not make improvements to the way we encourage and regulate environmental protection a partisan issue. Good Government would cut across party lines and live beyond any given administration. And, as I have noted above, improving the use of risk assessment and cost benefit analyses for environmental decision-making is something I have been pursuing for several Congresses. Rather, let us take a bipartisan and realistic approach to decision-making.

To better frame the debates on environmental protection, it is important that we consider the value of scientific information in decision-making. Our knowledge is often quite limited about the effects of pollution, exposure levels at the level, and the long-term impact of pollution on the environment and on human health.

For example, it is clear that we are asking the wrong questions. Marc Landy and his colleagues first noted this in their book “Risk Assessment and Public Policy.” As a first step, let us freely acknowledge that environmental decisions can be informed by science, but that they cannot be made based on science alone. In fact, truth be known, such decisions are based more on policy, economic and social considerations than they are on science. This does not mean that science is not useful for environmental decisions or that we shouldn’t vigorously pursue research to better understand what contaminants are released into the environment and we are exposed to, what gets into our bodies, and what happens to it there. We spend upwards of $385 billion per year to comply with environmental regulations, and while this is not necessarily too much to spend on environmental protection, it is too much to simply casually. Better knowledge about whether effects actually occur at the very low levels encountered in the environment could help frame the debates on environmental protection more sharply.

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because there is no direct way to address any consideration but risk.

Let us question whether the "Emperor Has Clothes," at least when it comes to how assessments of risk are used. Let's put risk in its proper place as one tool of many in the decision-making toolbox and let us face the issue honestly by broadening the range of issues and tools that can be used in making environmental decisions. Let's make the debate over environmental protection more realistic and relevant to our concerns, not pass any new laws that require or imply that EPA should determine the "safe" level when setting regulations. Rather, let us ask how much are we willing to pay to reduce risk by what amount given all the uncertainties in estimating costs and benefits and let us identify factors other than risk that make sense to consider when making decisions.

The bill I offer today addresses the risk assessment and cost/benefit assessment components of the decision-making process, focusing on its use for setting priorities in reduction to risks and costs. It does not prescribe how to conduct risk and cost/benefit assessments because of the evolving nature of those fields of inquiry and because of my desire to avoid freezing technology.

I am introducing "The Environmental Risk Evaluation Act," to help us learn how best to practice the trades of environmental risk assessment and cost/benefit analyses. The bill will put into law the major findings of the 1990 "Reducing Risk" report by EPA's Science Advisory Board—SAB. I agree with former EPA Administrator William Reilly's belief that science can lend much needed coherence, order, and integrity to costly and controversial decisions.

America's environmental laws are a large and diverse lot. We have only two decades of experience on this subject, and we are still learning, feeling our way. The relative risk ranking and cost/benefit analyses called for in this bill provide some common ground for looking at our environmental laws. The bill also provides the public and Congress with access to the findings. The "Reducing Risk" report states that "relative risk data alone is not an assessment technique that should inform the public—judgment as much as possible." Not dictate it, but inform it.

All this will take time, decades perhaps. But let us take heart. Questions that seem difficult now can with a certain amount of effort yield to the scientific method. I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD.

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

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 "Environmental Risk Evaluation Act of 1995.

SEC. 2. FINDINGS AND POLICY.

(a) Definitions. As used in this section:

(1) ADMINISTRATOR. The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH. The term "adverse effect on human health" includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK. The term "risk" means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(b) FINDINGS. Congress finds that:

(1) SOURCE OF POLLUTION. The term "source of pollution" means a category or class of facilities or activities that alter the chemical, physical, or biological properties of the environment, including the air, water, soil, or land, in a manner that increases the risk to human health or the environment.

(2) M ETHOD OF RANKING. In carrying out the rankings under paragraph (1), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(3) EVALUATION OF REGULATORY AND OTHER COSTS. In carrying out the rankings under paragraph (1), the Administrator shall evaluate—

(A) the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution; and

(B) the private and public costs and benefits associated with other Federal actions with impacts on human health and the environment, or public welfare, including direct development projects, grant and loan programs to support infrastructure construction and related permits, and permits to use natural resources or to release pollution to the environment, and other similar actions.

(c) RISK REDUCTION OPPORTUNITIES. In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(d) UNCERTAINTIES. In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks; and

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation.

(e) DETERMINE—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the type and cost of conducting the research.

(f) CONSIDERATION OF BENEFITS. In carrying out this section, the Administrator shall consider, to the extent practicable, estimates of the monetary and nonmonetary values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(g) REPORTS. 

(A) PRELIMINARY REPORT. Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address,
and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—
(i) IN GENERAL.—On completion of the rankings and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the “Safe Drinking Water Act”) (42 U.S.C. 300f et seq.), that present inherent and known as the “Safe Drinking Water Act” (42 U.S.C. 300f et seq.), that present inherent and known risks to human health, the environment, and other Federal actions, including the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4366), shall conduct a review by the Citizens Commemorative Coin Advisory Committee.

(c) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) the face value of the coin;
(2) the date of the coin’s issuance;
(3) the mint mark of the coin;
(4) a representation of the United States Mint seal; and
(5) a representation of the coat of arms of the United States.

(d) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(e) PERIOD FOR ISSUANCE.—The Secretary shall mint and sell the coins issued under this Act only during the period beginning on June 26, 1995, and ending on December 31, 2002.

(f) SALE OF COINS.—The Secretary shall make bulk sales of the coins issued under this Act at a price equal to the sum of—

(1) the face value of the coins;
(2) the surcharge provided in subsection (d) with respect to such coins; and
(3) the cost of designing and issuing the commemorative coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(g) NUMISMATIC ITEMS.—For purposes of sections 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 2. COIN SPECIFICATIONS.

(a) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) PERIOD FOR ISSUANCE.—The Secretary shall mint and sell the coins issued under this Act only during the period beginning on June 26, 1995, and ending on December 31, 2002.

(c) SALE OF COINS.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.
entry into the United States. One as-
picture of the bill yet to be implemented
brings to the floor today: the trans-
feree of the functions of the Central In-
telligence Agency to the Department of
State.

The scrutiny that has now visited the
intelligence community in the after-
math of the exposure of Aldrich Ames, the man whose treason caused the
deaths of at least 10 American agents,
increases the likelihood that some long
needed reassessments will be made. I
do not relish these circumstances, for
to a great extent the Ames case merely
disclosed the most fundamental defects of the CIA. While the
Ames affair brings attention to the Di-
rectorate of Operations, it takes scru-
tiny away from the Directorate of In-
telligence.

What of operations? Speaking before
the Boston Bar Association in 1993, J
John le Carré, the man who provided us
with a window into the world of a spy,
questioned the contributions of spies to
the winning of the cold war. In his re-
marks he stated:

"You see, it wasn't the spies who won the
cold war. I don't believe that in the end
the spies mattered very much at all. Their
capsuled isolation and their remote theoriz-
ing actually prevented them from doing,
as late as 1987 or 8, what anybody in the streets
could have told them:

"It's over, we've won. The Iron Curtain is
crashing down! The millennium we fought is a
dare to your trenches and smile!"

Even the victory, for them, was a cunning
Bolshevik Trick.

And anyway, what had they got to smile
about? It was a victory achieved by open-
ness, by openness, by openness. By frankness, not intrigue.

The Soviet Empire did not fall apart
because the spooks had bugged the men's room
in the Kremlin or put broken glass in Mrs.
Brezhnev's bath, but because running a huge
in the Kremlin or put broken glass in Mrs.
Brezhnev's bath, but because running a huge
ashes of the Cold War.

The collapse of the Soviet Union was
therefore the very denial of secrecy. Mr. le Carré is not alone. Recently Wil-

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did not hold than in the failure of the intelligence products to highlight the extent to which they were assumptions. Surely intelligence products could benefit from highlighting assumptions. However, a more rigorous scrutiny provided by greater openness would give an opportunity for facts, assumptions, and conclusions to be challenged.

Scientists have long understood that secrecy keeps mistakes secret. In the early 1960s, Jack Ruina, an MIT professor who had been head of the Defense Nuclear Research Project, testified at the Department of Defense during the Kennedy administration, told me after visiting the Soviet Union that it was plain it just wasn’t working. In particular he noticed something which someone without scientific training might not have. The Soviets did not know who their best people were. Promising young scientists in Russia were locked in a room and had no knowledge about the activities of their colleagues in the country. Anyone who has visited the fine research hospitals of New York can tell you, the free flow of ideas is vital to advancement. Openness of information is essential for great science.

This is no secret. Indeed, in 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that “more might be gained that lost if our nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information.”

Yet the secrecy system is still in place. The information Security Oversight Office keeps a tally of the number of secrets classified each year. They reported that in 1993 the United States created 6,408,688 secrets. Absurd. While the Pentagon reported that in 1993 the United States spent 10% of its budget on spies, it is likely that the United States spent at least 30% of its budget on spies. And if one could quantify the cost of the National Security Council, nor anyone else would be in a position to know what it was doing or to control it.” The State Department must function as the primary agency in formulating and conducting foreign policy. Any other arrangement invites confusion.

In the last 4 years, I have introduced legislation to improve the administration of the Documents National Historical Park in New York, and for other purposes; to the Committee on Energy and Natural Resources.

The National Historic Park Act of 1995

Mr. MOYNIHAN. Mr. President, I rise today introducing the Abolition of the Central Intelligence Agency Act.

By Mr. MOYNIHAN: S. 127. A bill to improve the administration of the Women’s Rights National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

The National Historic Park Act of 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will add several important properties to the Women’s Rights National Historical Park in Seneca Falls, NY. In 1850 I introduced legislation to commemorate an idea, that all men and women are created equal, and that women should have equal political rights with men. From this beginning sprang the 19th amendment and all that other advances for women this century and last.

With the historic park authorized in 1980, we began the planning, held a design competition for the visitors center, and paid for the construction. The park is now in operation and a tremendous success. Visitorship increased 50 percent in fiscal year 1993 to 30,000. However, the park is not complete. As can be expected when starting such a venture from zero, not all the important pieces were acquired at the outset. Several remain in private hands or under the control of the Trust for Public Land, and this bill authorizes their addition to the park.

These properties include the last remaining piece of the original Elizabeth Cady Stanton property, necessary so that the Stanton House can be restored to its original condition, and the Young House in Waterloo, important for safety, resource preservation, and preserving the historic scene at the M’Clintock House. The other two are the Baldwin property, which would provide a visitor contact facility, restrooms, and boat docking facilities, and a maintenance facility now being rented by the Park Service.

These additions to the Women’s Rights National Historic Park will add tremendously to the enjoyment and value of a visit. The National Park Service supports them, and in fact I understand that this legislation is the top priority for the North Atlantic Region. We must pass it promptly, for time is not a luxury; the Nies property is in the early stages of foreclosure. I urge my colleagues to support this bill, and to come to the Women’s Rights Park themselves. It is a trip well worth making.

Further ask that the text of the bill be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 1. COMPOSITION.

The second sentence of section 1610(c) of Public Law 96-607 (16 U.S.C. 410ll) is amended—

(1) by striking “initially”;
(2) by striking paragraph (7);
(3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively;
(4) by striking “and” at the end; and
(5) by adding at the end the following: “(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in order to acquire for development of a maintenance facility; and
(10) dwelling, Seneca Falls, Seneca County; Seneca Falls Falls; (11) dwelling, 1 Seneca Street, Seneca County; Seneca Falls Falls; (12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Avenue, Seneca Falls; and
(13) dwelling, 12 East William Street, Waterloo.”

SEC. 2. MISCELLANEOUS AMENDMENTS.

Section 1610 of Public Law 96-607 (16 U.S.C. 410ll) is amended—

(1) in subsection (h)(5), by striking “ten years” and inserting “25 years”; and
(2) in subsection (i)–

(A) by adding at the end: “By striking paragraph (7); and
(B) by striking “$700,000” and inserting “$1,500,000”; and
(C) by striking “$500,000” and inserting “$1,500,000”; and
(D) by adding at the end the following: “(2) in addition to the sums appropriated before the date of enactment of this paragraph for land acquisition and development to carry out this section, there are authorized to be appropriated for fiscal years beginning after September 30, 1994, $2,000,000.”;

By Mr. MOYNIHAN:

S. 128. A bill to establish the Thomas Cole National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

The Thomas Cole National Historic Site Act

Mr. MOYNIHAN. Mr. President, I rise today introducing a bill which would place the home and studio of Thomas Cole under the care of the National Park Service as a National Historic Site. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830s and 1840s. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kensett.

No description of Cole’s works would do them justice, but let me say that...
their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that America had previously admired. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. He worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house uptown in Catskill, where he turned boarded, owned, married, and raised his family. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

Three art collectors saved Cedar Grove from developers, and now the Thomas Cole Foundation is offering to donate the house to the Park Service. This would be the only second site in the Park Service dedicated to interpreting the life and work of an American artist.

Olana, Church's home, sits immediately across the Hudson, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America's foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

Mr. President, the home of Thomas Cole is being offered as a donation. I believe we owe it to him, and to the many people who admire the Hudson River School and explore its origins, to accept this offer and designate it a National Historic Site.

I regret that none of Thomas Cole's work hangs in the Capitol, although two works of landscape can be found in the stairwell outside the Speaker's Lobby. Perhaps Cole's greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole's that we would be advised to remember is The Course of Empire, which depicts the rise of a great civilization from the wilderness, and its return.

Last year the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole's importance and the merit of adding his home to the list of National Historic Sites. I should add that this must happen soon. The house needs work, and will not endure many more winters in its present state.

I ask that my colleagues support this legislation, and that the text of the bill be printed in the RECORD, as follows:

S. 128

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 "Thomas Cole National Historic Site Act of 1995".

SEC. 2. FINDINGS AND PURPOSES. (a) FINDINGS.—Congress finds that—

(1) the他妈的 artistic landscapes painting was inspired by Thomas Cole and was characterized by a group of 19th-century landscape artists who recorded and celebrated the landscapes and wilderness of America, particularly in the Hudson River Valley region in the State of New York;

(2) Thomas Cole has been recognized as America's foremost landscape and allegorical painter in the mid-19th century;

(3) the他妈的 Thomas Cole House in Greene County, New York is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(4) within a 15-mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists survive intact;

(5) the State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the historic artist and artistic resources of the Hudson River Valley region; and

(6) establishment of the Thomas Cole National Historic Site will provide opportunities for conservation and interpretation of important historic places, cultural themes of the heritage of the United States and unique opportunities for education and enjoyment.

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

(1) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

SEC. 3. DEFINITIONS. As used in this Act:

(1) HISTORIC SITE.—The term "historic site" means the National Historic Site established by section 4.

(2) HUDSON RIVER ARTISTS.—The term "Hudson River artists" means artists who belonged to the Hudson River school of landscape painting.

(3) PLAN.—The term "plan" means the general management plan developed pursuant to section 6.

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

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE. (a) IN GENERAL.—There is established as a unit of the National Park System, the Thomas Cole National Historic Site, in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 238 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/8002, and dated March 1992.

SEC. 5. ACQUISITION OF PROPERTY. (a) REAL PROPERTY.—The Secretary is authorized to acquire lands, and interests in lands, within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or condemnation.

(b) PERSONAL PROPERTY.—The Secretary may also acquire by the same methods as provided in subsection (a), personal property associated with, and appropriate for, the interpretation of the historic site, provided that the Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists only by donation or purchase with donated funds.

SEC. 6. ADMINISTRATION OF SITE. (a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and all laws generally applicable to units of the National Park System, including the Act entitled "An Act To establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2-4), and the Act entitled "An Act To provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—To further the purposes of this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Thomas Cole Foundation, and other appropriate entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the development, presentation, and funding of exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(2) LIBRARY AND RESEARCH CENTER.—The Secretary may enter into a cooperative agreement with the Greene County Historical Society to provide for the establishment of a library and research center at the historic site.

(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, works of art associated with Thomas Cole and other Hudson River artists, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 complete fiscal years after the date of enactment of this Act, the Secretary shall develop a general management plan for the site.

(2) SUBMISSION TO CONGRESS.—On the completion of the plan, the plan shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Public Lands and Resources of the House of Representatives.

(3) REGIONAL WAYSIDE EXHIBITS.—The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities.

(4) PREPARATION.—The plan shall be prepared in accordance with section 12(b) of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C. 1a-1 through 1a-7).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. McCaIN (for himself and Mr. FeINGOLD):

S. 129. A bill to amend section 207 of title 18, United States Code, to tighten
the restrictions on former executive and legislative branch officials and employees to the Committee on Governmental Affairs.

THE ETHICS IN GOVERNMENT REFORM ACT OF 1995

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

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Reform Act of 1995."  

SEC. 2. SPECIFICS FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) In General.--

(1) Appearances before agency.--(A) Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"(3) Restrictions on political appointees.--(A) In addition to the restrictions set forth in subsections (a) and (c) and paragraph (1) of this subsection, any person who--

"(i) serves in the position of Vice President of the United States; or

"(ii) is a full-time, noncareer Presidential, Vice presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer, and who, after the termination of his or her service as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by such officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) Foreign agents.--Section 207(f) of title 18, United States Code, is amended by--

(A) redesignating paragraph (2) as paragraph (4); and

(B) adding after paragraph (1) the following:

"(2) Special restrictions.--Any person who--

"(A) serves in the position of Vice President of the United States;

"(B) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

"(i) is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995), and

"(ii) is employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

"(iii) knowing after such service or employment--

"(I) represents a foreign national (as defined in section 312 of title 5, United States Code, or is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995), and

"(II) in an official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(3) Gifts from a foreign government or foreign political party.--Any person who--

"(A)(i) serves in the position of Vice President of the United States;

"(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995), and

"(iii) is employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

"(B) knowingly after such service or employment--

"(I) accepts any item which is intended solely for presentation;

"(II) loans from banks and other financial institutions on terms generally avilable to the public;

"(III) opportunities and benefits, including favorable rates and commercial discounts, available to the public;

"(iv) travel subsistence, and related expenses in connection with the person's rendering of advice or aid to a government of a foreign country or foreign political party, if the Secretary of State certifies in advance that such activity is in the best interests of the United States.

(3) Trade negotiators.--Section 207(b)(1) of title 18, United States Code, is amended by--

(A) inserting "(A)" after "In general.--"; and

(B) adding at the end thereof the following:

"(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any..."
COALA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; if

(iii) is a Member of Congress or employed in a position at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

(ii) is employed in a position in the Executive Office of the President, and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive or legislative branch, for a period of not less than 5 years.

"(9) COMMENTS.—Nothing in this section shall prevent an individual from making communications in response to a notice in the Federal Register, Commerce Business Daily, or similar publication soliciting communications form the public and directed to the agency official specifically designated in the notice to receive such communications, or to influence, any communication to or appearance before any committee member or an instrumentality of the legislative or executive branch.

"(10) ADJUDICATION.—Nothing in this section shall prevent an individual from making communications or appearances in compliance with written or oral agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code or substantially similar provisions.

"(11) Nothing in this section shall prevent an individual from submitting written comments filed in a public docket and other communications that are made on the record.

SEC. 3. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18, United States Code, as added by section 2 of this Act, shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

"(8) TESTIMONY TO THE CONGRESS.—Nothing in this section shall prevent an individual from testifying or submitting testimony to any committee or instrumentality of the Congress.

"(9) COMMENTS.—Nothing in this section shall protect an individual or any committee or instrumentality of the Congress.

"(10) ADJUDICATION.—Nothing in this section shall prevent an individual from testifying or submitting testimony to any committee or instrumentality of the Congress.

"(11) Nothing in this section shall prevent an individual from making communications in response to a notice in the Federal Register, Commerce Business Daily, or similar publication soliciting communications form the public and directed to the agency official specifically designated in the notice to receive such communications.

"(12) Nothing in this section shall prevent an individual from making communications or appearances in compliance with written or oral agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code or substantially similar provisions.

"(13) Nothing in this section shall prevent an individual from submitting written comments filed in a public docket and other communications that are made on the record.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remaining provisions of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Mr. FEINGOLD. Mr. President, I must agree with my colleague, Senator McCain, in introducing this legislation that will strengthen our current law. I think that we need to make some significant changes in our laws to prevent the revolving door between public and private sector employment—The so-called revolving door. The Senator from Arizona has been a very strong and consistent voice on this, and I think that this bill is critical to efforts to move forward in this area.

The proposal that we are offering today is yet another attempt to improve the public interest in lobbying and the revolving door between the federal government with our constituents. We know, as reflected by the last two election cycles, that voters are fed up with a system here in Washington that both parties are putting a lock on this door for personal gain and profit. Some may suggest that we are seeking to alleviate meritless concerns of an overreacting public. But the facts show that on this issue the public is right on target. For example, since 1974 according to the Center for Public Integrity, 47 percent of all former senior U.S. trade officials have registered with the Justice Department as lobbyists for foreign agents. In other words, nearly half of our former high-ranking trade representatives, who played active roles in our trade negotiations and have direct knowledge of confidential information of U.S. trade and business interests, are now lobbying on behalf of foreign interests. How many of these individuals are representing these foreign interests at the negotiating table opposite the United States. Whether you supported or opposed recent trade agreements such as the North American Free Trade Agreement or the General Agreement on Trade and Tariffs, one can only speculate as to how much revolving door practices influenced the outcome of those negotiations. And that is just our trade officials. Such revolving door problems are just as prevalent in the legislative branch. Former members of Congress who once chaired or served on committees with jurisdiction over particular industries or special interests are now lobbying on behalf of those industries or special interests. Former committee staff directors are using their contacts and knowledge of their former colleagues on behalf of those industries or special interests. Form.
of the House Foreign Affairs Committee registering as a lobbyist on behalf of a foreign country? How can we ensure that the trade agreements we enter into are indeed fair when individuals who have recently represented the United States are now on the other side of the bargaining table? Or how about the Chairman of the House subcommittee with jurisdiction over the Rural Electrification Administration retiring last year to head the National Rural Electric Cooperative Association. Are our constituents to believe that this former chairman has no special influence or influence with his former committee that may benefit his new employer?

It seems that since the election last November that the print media has been filled with announcements of government officials leaving the public sector to work for lobbying firms. One recent article announced that a staff assistant leaving her position on the House Subcommittee on Energy and Power will be working for the government relations, i.e. lobbying, department of a recent new employer, the American Public Power Association. Another one announced that a recently retired former member of the House Ways and Means Subcommittee on Select Revenue Measures is joining a Washington lobbying firm. According to this announcement, the former employee who will specialize in tax policy. Mr. President, the problem of revolving door lobbying is quite clear, and in our review, so is the solution.

The bill we are introducing today will strengthen the post-employment restrictions that are already in place. There is currently a one year ban on former members of Congress lobbying the entire Congress as well as senior congressional staff lobbying their former employing entity. Members and senior staff are also prohibited from lobbying on behalf of a foreign entity for one year. Our bill will prohibit members of Congress and senior staff from lobbying the entire Congress for two years, and their former committees for one year. The one year ban on lobbying on behalf of a foreign entity will become a lifetime ban. In early 1993, President Clinton issued a strong executive order which bars senior executive branch officials from lobbying their former agencies for five years, and prohibits employees of the Executive Office of the President from lobbying on a matter they had substantial involvement in for five years. It also includes a lifetime ban on lobbying on behalf of a foreign entity. Our bill codifies these regulations for the executive branch, and also imposes a two year ban on political appointees and senior executive branch staff from lobbying other executive branch officials. Finally, our bill will limit the ban on former trade officials either lobbying on behalf of a foreign entity, or advising for compensation a foreign entity on how best to lobby the U.S. government.

This bill is targeted in two ways: First, it only affects legislative and executive branch staff members who earn over 80,000 dollars. Whereas, I hope that we will address that issue as soon as possible. But there is another very important step that this Congress needs to take if we are to recapture the trust of the American people. For as long as our trade representatives are wrapped up in a firestorm of cynicism and skepticism with which the public views their government. We must clamp down on the widespread custom of entering public service and then trading knowledge and influence gained during that service for personal advantage. It is an insult to the thousands of government employees who are in public service for the right reasons. The principal reason why an individual would accept employment as a United States Senator, as an assistant secretary in the Commerce Department or as a negotiator in the Office of the U.S. Trade Representative, should not be to use that service as stepping stone to personal wealth and gain. The principal reason should be a wish to represent the citizens of your state, or to improve our economic base or to pry open foreign markets for our domestic products. We are considering entering government service that issue as soon as possible. But more than anything else, is what we as individual Senators believe the meaning of public service should be.

Quite frankly, I find this sort of suggestion, that we almost need to ‘bribe’, or ‘lure’ people into public service, a telling example of why the American people have lost faith in us. It is also an insult to the thousands of government employees who are in public service for the right reasons. The principal reason why an individual would accept employment as a United States Senator, as an assistant secretary in the Commerce Department or as a negotiator in the Office of the U.S. Trade Representative, should not be to use that service as stepping stone to personal wealth and gain. The principal reason should be a wish to represent the citizens of your state, or to improve our economic base or to pry open foreign markets for our domestic products. We are considering entering government service that issue as soon as possible. But more than anything else, is what we as individual Senators believe the meaning of public service should be.

I am reminded of my former majority leader, Senator Mitchell, who characterized the meaning of government service at a reception that was given in his honor last fall. Senator Mitchell said: “Public service gives work a value and a meaning greater than mere personal ambition and private goals. It also makes us proud of the country we serve and of our own reward. For it does not guarantee wealth, or popularity or respect. It’s difficult and often frustrating. But when you do something that will
change the lives of people for the bet-
ter, then it is worth all of the difficulty
and all of the frustration.”

In conclusion, Mr. President, I would
like to again commend Senator McCain
for his leadership on this issue. I stron-
gly believe that there is no more
noble endeavor than to serve in govern-
ment. But we need to take immediate
action to restore the public's con-
fidence in their government, and to re-
build the lost trust between members
of Congress and the electorate. Passing
this legislation and curbing the prac-
tice of revolving door lobbying is a
force for first step in this much-needed
direction. We need to enact legislation
that will finally reform the way we fi-
nance congressional campaigns and
that will level the playing field be-
tween incumbents and challengers. We
need to enact comprehensive lobbying
reform legislation, so that our con-
stituents know exactly whose interests
are being represented. And long over-
due, Mr. President, is the need to act
on legislation that will reform the way
Congress deals with the thousands and
thousands of gifts and other perks that
are offered to Members each year from
individuals, lobbyists and associations
that seek special access and influence on
Capitol Hill.

The notion of public service has been
battered and tarnished in recent years.
Serving in government is an honorable
profession and it deserves to be per-
cieved as such by the people we rep-
resent.

By Mr. LIEBERMAN (for himself,
Mr. JEFFORDS, Mr. MOYNIHAN,
and Mr. LAUTENBERG):

S. 130 A bill to amend title 13, Unit-
ed States Code, to require that any
data relating to the incidence of pov-
erty produced or published by the Sec-
retary of Commerce for subnational
areas is corrected for differences in the
cost of living in those areas; to the
Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT
Mr. LIEBERMAN. Mr. President, I
rise to introduce a bill which will im-
prove the quality of our information on
persons and families in poverty, and
which will make more equitable the
distribution of Federal funds. The Po-
verty Data Correction Act of 1995 is co-
sponsored by Senators JEFFORDS, MOY-
NIHAN, and LAUTENBERG. This bill re-
quires the Bureau of the Census to ad-
just, for differences in the cost of living,
on a State-by-State basis, when provid-
ing information on persons or families
in poverty.

The current method for defining the
poverty population is woefully anti-
quated. The definition was developed
in the late 1960's based on data collected
in the late 1950's and early 1960's. The
assumptions used then about what pro-
portion of a family's income is spent on
food is no longer valid. The data used
to calculate what it costs to provide
for the minimum nutritional needs, not
to mention what minimum nutritional
needs are, no longer applies. Nearly ev-
everyone agrees that it is time for a new
look at what constitutes poverty. And,
I am pleased to be able to report that
the National Academy of Sciences,
through its Committee on National
Statistics, is studying this issue.

But there is a more serious problem
with out information on poverty than
old data and outdated assumptions. In
calculating the number of families in
poverty, the Census Bureau has never
taken into account the dramatic dif-
fences in the cost of living from state
to state. Recent calculations from the
academic community show that the dif-
fERENCE can be as much as 50 percent.
Let's say you have a family of four.
Let's say that the poverty level is $15,000
for a family of four. That is, it takes
$15,000 to provide the basic necessities
for the family. In some States, where
the cost of living is high, it really
takes $18,750 to provide those basics.
In other States, where the cost of living
is low, it takes only $11,250 to provide
those necessitites. But when the Census
Bureau counts the number of poor fam-
ilies, they don't take those differences
into account.

But this is more than just an aca-
demic problem of definition. These
Census numbers are used to distribute
millions of Federal dollars. Chapter 1
of the elementary and Secondary Act
allocates Federal dollars to school dis-
tricts based on the number of children
in poverty. States like Connecticut,
where the cost of living is high, get
fewer Federal dollars than they deserve
because the cost differences are ignored.
Other States, where the cost of living
is low, get more funds than they de-
serve.

It is important that we act now to
correct this inequity. This bill provides
a mechanism for that correction.
Thank you Mr. President, I ask unani-
uous consent that the full text of this
bill be included in the record.

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

S. 130
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled,

SEC. 198. DEVELOPMENT OF STATE COST-OF-LIV-
ING INDEX AND STATE POVERTY THRESHOLDS.

“(a) To correct any data relating to the in-
cidence of poverty produced or published
by the Census Bureau for differences in the
cost of living, the Secretary shall—

“(1) develop or cause to be developed a
State cost-of-living index which ranks and
assigns an index value to each State using
data on wage, housing, and other costs rel-
vant to the cost of living; and

“(2) multiply the Federal Government's
state poverty thresholds by the index
value for each State's cost of living to
produce State poverty thresholds for each
State.

“(b) The State cost-of-living index and re-
sulting State poverty thresholds shall be
published prior to September 30, 1996, for cal-
endar year 1995 and shall be updated annu-
ally for each subsequent calendar year.”

SEC. 197. Correction of subnational data re-
lating to poverty.

S. 197. Correction of subnational data re-
lating to poverty.

By Mr. LIEBERMAN:

S. 131. A bill to specifically exclude
the Federal Reserve System, the Federal
Reserve Banks, and the Federal Reserve
Board from provisions of the Federal Re-
serves Act of 1933, to the Committee on Banking, Housing,
and Urban Affairs.

THE ELECTRONIC FUNDS TRANSFER ACT
Mr. LIEBERMAN. Mr. President, I
rise to introduce the Electronic Bene-
fits Regulatory Relief Act of 1994. This
bill is also cosponsored by Senators
BREAUX, DOMENICI, FEINSTEIN, PRESS-
LER, and HATFIELD. When passed, this
bill will eliminate one of the major
barriers to making the banking system
more accessible to those receiving gov-
ernment benefits like Aid to Families
with Dependent Children or Food
Stamps. If this bill is not passed, we
will have missed an opportunity to re-
duce the cost of government services,
and an opportunity to make the deliv-
ery of government services, more effi-
cient and humane.

This legislation is necessary to re-
verse a regulation issued by the Fed-
eral Reserve Board. That ruling, issued
last March, said that the Electronic Bene-
fits Transfer [EBT] cards issued by
States are subject to the same liability
limits as ATM or credit cards. On the
surface that seems reasonable—a card
is a card and there seems little reason
to differentiate between cards to with-
draw government benefits from a bank
and cards to withdraw earnings or sav-
ings from a bank. But, as is often the
case with regulations, what appears on
the surface isn't necessarily the whole
story.

With the simple extension of this reg-
ulation to EBT cards, the Federal Re-
serves is attempting to extend its social
benefits legislation, extended the Elec-
tronic Funds Transfer Act into a realm
it was not intended to cover, and cre-
ated for states a new liability of unpre-
dictable size. This bill seeks to reestab-
lish the legislative intent governing

"SEC. 198. DEVELOPMENT OF STATE COST-OF-LIV-
ING INDEX AND STATE POVERTY THRESHOLDS.

“(a) To correct any data relating to the in-
cidence of poverty produced or published
by the Census Bureau for differences in the
cost of living, the Secretary shall—

“(1) develop or cause to be developed a
State cost-of-living index which ranks and
assigns an index value to each State using
data on wage, housing, and other costs rel-
vant to the cost of living; and

“(2) multiply the Federal Government's
state poverty thresholds by the index
value for each State's cost of living to
produce State poverty thresholds for each
State.

"SEC. 197. Correction of subnational data re-
lating to poverty.

"SEC. 198. Development of State cost-of-liv-
ing index and State poverty thresholds.

"SEC. 197. Correction of subnational data re-
lating to poverty.

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ing index and State poverty thresholds.

"SEC. 198. DEVELOPMENT OF STATE COST-OF-LIV-
ING INDEX AND STATE POVERTY THRESHOLDS.

"SEC. 197. Correction of subnational data re-
lating to poverty.

"SEC. 198. Development of State cost-of-liv-
ing index and State poverty thresholds.
Food Stamps, the legislative intent of the Electronic Funds Transfer Act, and at the same time limit a State's exposure to liability if they choose EBT over checks and coupons.

Electronic Benefit Transfer Cards are simply an extension of current technology into the delivery of government benefits. Instead of receiving checks or coupons, recipients receive an EBT card. With that card they can access the cash benefits whenever and wherever they choose. They can withdraw as little as five dollars, or as much as the system will allow in a single transaction. Recipients can use their card at the supermarket instead of food stamps the way millions of Americans now use credit or debit cards to pay for food.

EBT cards offer recipients greater protection from theft than current methods of payment. Without the associated pin number, the EBT card is useless. Checks are easily stolen and forged. Food Stamp coupons, once stolen, can be used by anyone and can even be used to buy drugs on the black market.

EBT cards provide recipients access to a banking system that is frequently criticized for shunning them. It is often the case that the only way a recipient can get his or her check cashed is by paying an exorbitant fee to some nonbanking facility. Several Senators have introduced or supported bills requiring cash-only to cash government checks. Their goal was to provide these individuals access to the same services most Americans enjoy. Those bills will be unnecessary when EBT cards replace checks. EBT cards can be used at a number of locations at any hour of the day or night and no fee is charged to the recipient for transactions.

The action by the Federal Reserve will stop all of these benefits from happening. State and local governments have indicated that if Regulation E is enforced they will immediately go forward with their own high cost projects. J ohn Michaelson, the director of social services in San Bernardino County, CA, points out that while San Bernardino County was selected as the pilot site for the California EBT development, that project will not go forward as long as Regulation E applies. Similarly, Governor Carlson of Minnesota recently wrote to me indicating that the plans to expand EBT statewide in Minnesota will be halted by the application of Regulation E. Letters of support for this legislation have come from Governor Pete Wilson of California, Governor David Walters of Oklahoma, Governor Mike Sullivan of Wyoming, Governor Edwin W. Edwards of Louisiana, Governor Arne H. Carlson of Minnesota, the National Association of State Auditors, Comptrollers and Treasurers, the American Public Welfare Association, the National Association of Counties the National Governors Association, and the Electronic Funds Transfer Association. I ask unanimous consent that these letters, along with the letter from Mr. Michaelson, be printed in the Record immediately following my statement.

The dilemma that faces States is that simply switching from checks and coupons to EBT cards, because of Regulation E, creates a new liability. Stolen benefit checks and coupons are not replaced except in extreme circumstances. Regulation E requires that all but $50 of any benefits stolen through an EBT card must be replaced. The effect of the Federal Reserve's action is that the simple act of changing the method of delivery imposes on the States a liability of unknown magnitude.

This action by the Federal Reserve is inconsistent with the legislative intent that created the benefit programs. The legislation for both Food Stamps and Aid to Families with Dependent Children—the two largest programs included in EBT—are quite clear in specifying that lost or stolen benefits will be replaced only in extreme circumstances. We should not allow that legislation to be changed through regulation.

This action is also inconsistent with the legislative intent of the Electronic Funds Transfer Act. The EFTA is about the relationship between an individual and his or her bank. It is designed to protect the individual in that relationship because of the dramatic disparity in power between the individual and the bank. In EBT, any relationship between the bank and the individual is mediated by the State. The State sets up a single account which all recipients draw from. If there is a mistake, either in the bank's favor or the recipient's, the bank goes to the State, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivlin, deputy director of OMB, to the Chair of the Federal Reserve. I ask unanimous consent that Dr. Rivlin's letter be included in the Record at this point.

Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, DC

Dear Mr. Wiles: This letter responds to your letter, published for comment on February 8, 1993, to revise Regulation E to cover electronic benefit transfer (EBT) programs. Please refer to Docket No. R-0796. This letter contains our endorsement of the EBT Steering Committee proposal for modifying Regulation E to recognize the differences between program beneficiaries and the consumers with bank accounts, and our recommendations for your consideration.

EBT Steering Committee View

We strongly support the recommendations of the Electronic Benefit Steering Committee, which were submitted to the Board on May 11, 1992. The EBT Steering Committee recommended that EBT be treated differently from other electronic fund transfers, that specific minimum standards be established for EBT programs, and that agencies be allowed to implement Regulation E fully on a voluntary basis, if appropriate. A copy of the Steering Committee recommendation is enclosed.

In an analysis that is being prepared for the Steering Committee, preliminary data from the Treasury indicate that the additional cost to government of compliance with Regulation E is estimated to be $120 million annually, with the most likely costs of $498 million. Such cost increases would preclude State and Federal expansion of current EBT programs an could cause termination of some, if not all, programs.

We oppose implementation of Regulation E as proposed by the Board on February 16, 1993 based on the recommendations of the EBT Steering Committee which is composed of senior Federal program policy officials who have given a great deal of deliberation to the issue and who are accountable for the actions of the Executive Office of the President, the Office of Management and Budget, the Department of Agriculture, the Department of Labor, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Transportation, the Federal Reserve System, and State and local governments.

Differences between Beneficiaries and Banked Consumers

The EFTA is intended to protect consumers from EFT services made available to them. The plastic EBT card gives the beneficiary more choices on where and when to withdraw cash. However, they are not "shopping cards" capable of being used to make purchases in a store. Recipients receive an EBT card. With that card they can access benefits through EBT in the future. In other words, these beneficiaries may be required to access benefits through EBT in the future. These differences make necessary protections that are different from other electronic fund transfers, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivlin, deputy director of OMB, to the Chair of the Federal Reserve. We believe that the preliminary data shows that States and the Federal government would be exposed to an expense that will seriously limit the potential for EBT in the future. In addition, we believe there are significant differences between program beneficiaries and a regular bank customer. OMB urges the Board not to exercise its authority under the Electronic Funds Transfer Act (EFTA) to prescribe regulations that consider the economic impact on beneficiaries, State and Federal program officials, and the associated benefits to financial institutions.

EBT offers great potential benefits to recipients alleviating the stigma of welfare experienced in grocery checkout lines when presenting food coupons, eliminating check cashing fees, allowing beneficiaries to become proficient with a technology useful in the working world, and eliminating the hazard of carrying cash after cashing a check. Surveys of beneficiaries show overwhelming preference for EBT over checks. The desire to access benefits through this technology is so strong that in at least one locality individual beneficiaries and the private sector are working, without government assistance, to extend EBT.

Individual benefit programs also offer significant protections to beneficiaries that are far greater than any protections afforded by financial institutions.

Access to funds by eligible beneficiaries is a right guaranteed by law and is not conditioned on any prior abuses. Eligibility is based on need.
Improper withdrawals can only be re-
couped in a way that protects economic in-
terest of beneficiary. For example, reduc-
tions of future benefits are strictly limited to 10 percent per month in AFDC.

If beneficiaries face an adverse action, extensive administrative apparatus supports the appeal at no cost to the beneficiary.

OMB RECOMMENDATIONS

The Federal Reserve Board has requested comment on proposed modifications in Regulation E for EBT beyond those proposed should be considered. OMB specific rec-
ommendations are enclosed.

We recommend that the Board create some exceptions in Regulation E for EBT pro-
grams. In summary, we believe the Board has authority under the EFTA to prescribe for EBT any class of electronic funds transfer that would effectuate the purposes of the EFTA. We be-
lieve that the Steering Committee proposal, taken together with existing protections in individual program requirements, establish the rights, liabilities, and responsibilities of participants in EBT programs and are pri-
marily directed to protect participants in this emerging technology. We look forward to continued progress on this government-wide initiative.

Sincerely,

ALICE M. RIVLIN,
Deputy Director.

Opponents of this action argue that by exempting EBT cards from the elec-
tronic Funds Transfer Act discrimin-
ates against the poor. This argument misses two important differences be-
tween EBT and ATM cards. First, ATM ac-
cess is a service that banks give with discre-
tion, and can withdraw. States cannot deny recipients access to ben-
fits. If there is abuse of the system, the State's only alternative is to operate dual systems, thus decreasing the effi-
ciency gains of EBT. Second, EBT ex-
tends to recipients greater protection of their benefits than checks or cou-
pens. If stolen, the card can't be used without the pin number. And, recipi-
ents are less likely to have all their cash stolen. With checks they must re-
cieve all the cash at once, and usually pay a fee for cashing the check. With EBT cards they can withdraw only what they need, and transaction costs are covered by the contract between the State and the bank.

Others suggest that the concern with fraud if EBT is covered by Regulation E un-
derscores the character of the recipients. This is not so. It only says that they are like everyone else—a small portion will participate in fraudulent activities to the expense of all the rest. One of the major criminal problems with ATM cards, according to the Secret Service, is fraud involving Regulation E protection. An individual can sell his or her ATM card, and as long as the price is greater than $50, everyone wins but the bank. The Sec-
ret Service knows this type of fraud occurs, it is very difficult. States rightly fear that similar fraud will occur with EBT.

Earlier this month the Vice Presi-
dent issued the first report from the EBT task force and called for nation-
wide implementation. Without passage of this legislation, that goal will never be reached. When the Federal Reserve was considering this issue, 40 governors wrote in opposition. The National As-
sociation of State Auditors, Comptrol-
ers, and Treasurers; The American Public Welfare Association, the Na-
tional Association of Counties, the Na-
tional Association of Secretaries of State; and the National Governors’ As-
sociation wrote jointly to Vice Presi-
dent Gore and to Chairman Greenspan opposing the application of Regulation E to EBT.

The Federal Reserve has made a mis-
take. We in Congress now need to act to ensure that benefits cards can be-
come a reality. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a copy of the bill and letters be printed in the Rec-
ord.

There being no objection, the mate-
rial ordered to be printed in the Re-
cord, as follows:

S. 131

be enacted by the Senate and House of Rep-
residents of the United States of America in Congress assembled.

SECTION 1. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund-
Transfer Act (15 U.S.C. 1693d) is amended—
(1) by inserting ``(1)'' after ``(d)''; and
(2) by adding at the end the following new paragraph:

``(2)(A) The disclosures, protections, re-
sponsibilities, and remedies created by this 
title or any rules, regulations, or orders is-
sued by the Board in accordance with this 
title, do not apply to an electronic benefit 
transfer program established under State or 
local law, or administered by a State or local 
government, unless payment under such pro-
gram is made directly into a consumer’s ac-
count held by the recipient.

(B) Paragraph (A) does not apply to 
employment related payments, including 
salaries, pension, retirement, or unemploy-
ment benefits established by Federal, State, 
or local governments.

(C) Nothing in subparagraph (A) alters 
the protections established by any Federal, 
State, or local law, or preempts the applica-
tion of any State or local law.

(D) For purposes of subparagraph (A), an 
electronic benefit program is a program 
under which a Federal, State, or local 
government agency distributes benefits tested 
accounts to be accessed by recipients elec-
tronically, such as through automated teller machines, or point-of-sale terminals. A program estab-
lished for the purpose of enforcing the sup-
port collection responsibilities of absent parents to 
their children and the custodial parents with 
whom the children are living is not an elec-
tronic benefit transfer program.’’

Sincerely,

ALICE M. RIVLIN,
Deputy Director.

OPPOSING VIEWS

DEAR SENATOR LIEBERMAN: We are writing to you to express full support for your lead-
ership in proceeding with legislation to ex-
empt electronic benefits transfer (EBT) from the Elec-
tronic Funds Transfer Act (EFTA), including exception from the Regulation E (Reg E) provision.

I recognize EBT as a tool to help the states provide efficient and effective social welfare 
benefits, and am confident of working with you to resolve the concerns raised by the application of Regulation E to EBT pro-
grams.

Sincerely,

PETE WILSON.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Committee on Regulation and Government Information, U.S. Senate, Hart Senate Office Build-
ing, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt elec-
tronic benefits transfer (EBT) from the Elec-
tronic Funds Transfer Act (EFTA).

The prompt passage of this legislation is needed to ensure that EBT becomes a reality in Oklahoma.

Electronic benefits transfer is the future of government benefit distribution. The advan-
tages for recipients and government entities have been studied and findings of the implementation of Reg T in March 1997, will be an irresponsible act in light of the consequences anticipated in liability costs to the states. If Regulation E is imple-
mented, the nationwide costs for replacing food stamps is estimated in excess of $800 million a year. Estimates are not available for the numerous mailed and anticipated for EBT distribution. Current federal regulations provide ample protection to the consumer recipients, in addition to the known advantages of receiving benefits elec-
tronically.

Oklahoma is leading a multi-state south-
west regional team to distribute food stamps and money payments. This month, the Oklahoma De-

Department of Human Services will publish a Request for Information to be distributed to potential bidders to inform them of our unique approach to procurement, and to pro-
vide the opportunity to comment on the pro-
posed system design. We plan to publish a Request for Bids in September to hire a vendor to provide EBT services. Oklahoma has been working toward this goal for five years. Our investment in EBT is an invest-
ment in local responsibility. Please feel free to call Dee Fones (405) 521-3333 if you have any questions or if we can be of further as-
sistance in helping to pass this legislation.

Sincerely,

DAVID WALTERS.

STATE OF WYOMING,
OFFICE OF THE GOVERNOR.

Hon. JOSEPH LIEBERMAN,
Chairman, Government Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing to you to express full support for your lead-
ership in proceeding with legislation to ex-
empt electronic benefits transfer (EBT) from the Elec-
tronic Funds Transfer Act (EFTA), including exception from the Regulation E (Reg E) provision.

Wyoming is developing an off-line smart card system solution to deliver state and fed-
eral benefits. Wyoming’s first phase is to
On January 4, 1995, a federal law was enacted that transformed the way government benefits were delivered. This law, known as the Electronic Benefits Transfer (EBT) system, replaced the traditional paper voucher system with a card-based system to improve efficiency and reduce fraud. The implementation of EBT had significant implications for both the federal government and state agencies responsible for distributing benefits such as food stamps, welfare, and Medicaid.

**Key Points**

- **EBT System**: The EBT system provided a card-based method for delivering government benefits, replacing the traditional paper voucher system.
- **Role of Banks**: Banks were responsible for managing the benefits and issuing the cards to clients.
- **Liability Issues**: There was a debate about who should be responsible for losses due to lost or stolen cards.
- **Costs and Benefits**: There were concerns about the costs associated with implementing EBT, including liability for lost or stolen cards.
- **Regulatory Impact**: The implementation of EBT was accompanied by regulatory changes, including the Electronic Fund Transfer Act (EFTA) and Regulation E, which governed transactions and liability issues.

**Legislative釀nfluence**

The legislation was supported by a number of stakeholders, including state governors, state auditors, and government agencies. The governor of Louisiana, Arne H. Carlson, wrote to Senator Joseph Lieberman expressing support for legislation that would exempt EBT from Regulation E. Similarly, the chairman of the Governmental Affairs Subcommittee, Hon. Joseph Lieberman, supported efforts to introduce legislation addressing these issues.

**Conclusion**

The implementation of EBT in 1995 marked a significant shift in the delivery of government benefits. It not only improved efficiency but also highlighted the need for robust regulatory frameworks to address emerging issues such as liability and fraud. The legislation and regulatory changes that followed were aimed at ensuring that the system remained secure and fair for all stakeholders.
dampens but may thwart state efforts to benefit from EBT. In fact, in a federal govern-
ment attempt to have states or localities currently operating EBT programs test the costs associated with the regulation, no state has yet come forward to volunteer for the pilot test due to the financial and politi-
cal risk.

As the national representative of the 50 cabinet-level federal agencies, hundreds of local public welfare agen-
cies, and thousands of individuals concerned about achieving efficient and effective social welfare policy, APWA is quite concerned about finding a solution that will allow progress on EBT. Our members are the innovators and visionaries bringing EBT to clients at the local level. They are the people who deliver the government benefits such as food stamps, AFDC, child sup-
pport, and medical aid and are committed to working with you to find a solution to the barrier Reg E presents.

Sincere thanks to you for taking the criti-
cal steps needed to mitigate the impact of the Board’s decision. We look forward to working with you to help pass this legisla-
tion quickly. Please feel free to call either me or Kelly Thompson at 202-682-0100.

Sincerely,

LARRY E. NAKE,
Executive Director.

NATIONAL GOVERNORS’ ASSOCIATION,

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing in strong support of legislation that you are introducing to exempt certain electronic benefit transfer programs from the Elec-
tronic Funds Transfer Act.

As you know, Governors have been leaders in using technology to deliver the benefits of services to the public through such initia-
tives as distance learning, telemedicine, and electronic benefit transfer (EBT). States and localities have been exploring for over a decade the potential of EBT for providing clients with more convenient and safer access to benefits and for improving the ability of states to manage programs and prevent fraud. More recently, Vice President Albert Gore has promoted nationwide EBT for some federal benefit programs in the near future as part of his Reinventing Government ini-
tiative.

Progress toward wider use of EBT has been slowed, however, by the Federal Reserve Board’s decision last March to apply Reg-
ation E of the Electronic Funds Transfer Act to programs. This Federal Reserve deci-
sion essentially changed federal social policy by requiring to replace the delin-
quent or lost welfare benefits with only one new entitlement benefit that clients receive those same welfare benefits and 
not to the states.

Governors are not opposed to consumer protec-
tions but are concerned that clients who lose or 
ate benefits may run as high as $800 million per year. Currently, the state of Maryland (and possibly others) is consider-
ing pursuing legal action against the Federal Reserve Board for regulating a matter that is beyond its purview. We believe that this is a new entitlement benefit that states have no legal authority to fund. Otherwise it will become an un-
fundable mandate on the states, and Governors will have little choice but to halt their ef-
torts toward creating EBT systems for wel-
fare clients.

If Congress is not able to fund this new en-
titlement benefit, then we believe that the only alternative is to allow that clients who 
are an entitlement benefit under the provisions of Regulation E are applied to EBT programs, however, we believe that Congress must recognize that this is a new entitlement benefit that states have no legal 
arity to fund it. Otherwise it will become an un-
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ensures that clients have the same rights and responsibilities regardless of whether they are welfare recipients or not.
Brown estimates that Maryland could inherit a potential liability of several million dollars. EFTA members include government agencies, EFT processors and networks, card issuers and manufacturers, as well as financial institutions. With a significant increment in costs due to benefit replacement, EBT would no longer be a viable venture for these stakeholders. EFTA would be pleased to work with you to help pass this legislation. In addition, we offer our assistance in crafting language that would further protect recipients whose benefits have been lost or stolen, while maximizing the opportunities for fraud that currently threaten fledgling EBT programs across the country.

We are looking forward to your thoughtful analysis and interest in such a significant issue. If EFTA can be of any help in this matter please do not hesitate to call at 703-435-9800.

Sincerely,
H. KURT HELVIG, Acting President & CEO, Director, Government Relations.

DEPARTMENT OF PUBLIC SOCIAL SERVICES, April 15, 1994.

Mr. WILLIAM LUDWIG, Administrator, Food and Nutrition Service, Alexandria, VA.

DEAR BILL: For more than 4 years San Bernardino County has attempted to bring Electronic Benefit Transfer (EBT), not only to California and, therefore, the above statement was arrived at only after a great deal of debate and discussion with all affected parties. However, an immediate resolution to the Regulation E cost-sharing issue could resolve this and allow us to move forward.

As always, I and my staff will make ourselves available to you at any time and I think will be helpful in our pursuit of EBT for San Bernardino County and, therefore, California.

Sincerely,

J. JOHN F. MICHAELSON, Director.

By Mr. MOYNIHAN (for himself and Mr. INOUYE):
S. 132. A bill to require a separate, unclassified statement of the aggregate amount of budget outlays for intelligence activities.

The DISCLOSURE OF THE AGGREGATE INTELLIGENCE BUDGET ACT of 1995

Mr. MOYNIHAN. Mr. President, Congress has never met its obligation under the "Statement of Account and an Account of the Receipts and Expenditures of the General Fund of the United States" of the Constitution (Article I, Section 9, Clause 7) which states:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law, and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

I rise to point out that Congress has failed to provide the American public with information about how the government is spending its money on intelligence activities. I stress that Congress has failed to satisfy this clause because, although the Executive may have an opinion as to the desirability of disclosing the aggregate amount of intelligence activities, the Supreme Court decided in United States v. Richardson, (418 U.S. 166, 178 n. 11) that "it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the national interest." It falls to us to provide a proper accounting of the disbursements of Government funds spent on intelligence activities.

The Framers of the Constitution were no strangers to intelligence work and the necessity in carrying out certain functions of the State. During the Revolutionary War the Colonies formed Committees of Safety which were charged with security and counterintelligence, and separate Committees of Correspondence which were responsible for securing communications between the Colonies and our allies in Europe. At the end of the War, George Washington submitted a bill for reimbursement of $17,617 for intelligence expenses incurred during the war. No small sum at that time.

The first part of the Statement and Account Clause, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law," was part of an early draft of the Constitution. The second part of the clause was proposed in the final week of the Constitutional Convention (September 14, 1787) by George Mason, who sought an annual account of expenditures.

The debate focused on how often was practicable to require such an account, not whether full disclosure was desirable. James Madison argued that if the Constitution were to "Require too much," then the difficulty will beget a habit of doing nothing. He then proposed to substitute "from time to time" for "annually" which was then adopted. Thus we have "and a regular Statement and Account of the Receipts and Expenditures of all Public Money shall be published from time to time."

Obviously such an ambiguous formulation of the clause gives Congress a good deal of flexibility. This was exercised from time to time to conceal military and intelligence activities when deemed necessary. Clearly it is not that some disclosure was rendered. However, it is also clear that secrecy was not intended to be the norm. The clarity with which Madison understood this is expressed in a letter he wrote to Jefferson in 1793. "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad."

I do not think that Justice Douglas overstated the case in his dissenting opinion in United States v. Richardson which stated that "the date at which Article I, Section 9, Clause 7 was aimed." Since World War II and throughout the cold war we have chosen not to publish the intelligence budget.

What we won the cold war. The Soviet Union no longer exists. One then might ask, whom are we keeping the aggregate intelligence figure from? In fact, we are not keeping it from anyone and this bill will only codify what in fact has been public knowledge for several years now.

Intelligence budget figures are regularly disclosed. Often the information is leaked to the press, or inferred by close scrutiny of budget figures, and in a few cases numbers will slip out accidentally. Tim Weiner, who reports such matters for the New York Times, called the intelligence budget figure the worst-kept secret in the capital. The latest episode occurred only 2 months ago when the House Appropriations Committee mistakenly published the President's fiscal year 95 intelligence budget request. Not just the aggregate amount, mind, but a detailed account of the requested budgets for the CIA, National Foreign Intelligence Program (NFIP), and Tactical Intelligence and Related Activities (TIARA). This small overscored the point that if only if a smaller amount of truly sensitive information were classified, the information could be held more securely. The aggregate intelligence budget clearly is not in that category, for we now see that the figures have been released and we are still waiting for the barbarians to storm the gates.

While we are waiting we might do well to consider how much like the barbarians we have become. James Q. Wilson, the eminent political scientist who has provided many insights into
the study of bureaucracy and its various adversarial modes, holds that organizations are in conflict with. This is the Iron Law of Emulation. Not an encouraging situation considering our adversary was the Kremlin for so long. We now have an opportunity to reverse the consequences of the emulation of the closed society that was the Soviet Union by shedding some light on our own vast secrecy system.

This is vitally important given that the 106th Congress which convenes today will carefully consider and debate our budget priorities. We cannot afford to fund all we might want to. In fact Mr. President, we are broke. And so publishing the aggregate amount of intelligence expenditures becomes necessary for a truly informed public debate. We then could weigh the importance of Head Start Programs in Topoeka and consider the need for agents in Tabriz. Such a debate is already difficult enough given the indications of a recent Harvard study which asked voters their impressions of the largest Federal expenses today. Apparently there is the idea that foreign aid is the second largest expense and consumes over a quarter of our budget. In fact the National Budget Officer tells us that foreign aid amounts to only two percent of the budget. Clearly there is enough disinformation going around. It is time for use to set the record straight when it comes to the intelligence budget. The Constitution demands it.

By Mr. MOYNIHAN, S. 133. A bill to establish the Lower East Side Tenement Museum National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER EAST SIDE TENEMENT MUSEUM NATIONAL HISTORIC SITE ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will authorize a small but most significant addition to the National Park system. For 150 years New York City’s Lower East Side has been the most vibrant, populous, and influential neighborhood in the Nation. From the first waves of Irish and German immigrants to Italians and Eastern European Jews to the Asian, Latin, and Caribbean immigrants arriving today, the Lower East Side has provided millions their first American home.

For many of them that home was a tenement on the Lower East Side, such as the one at 97 Orchard Street. For many of those working class life as part of the immigrant experience. For many of those working class life as part of the immigrant experience. For many of those working class life as part of the immigrant experience, the move for social change was elementary. The lower East Side Tenement Museum will show us what that next stop was like.

The tenement at 97 Orchard was built in the 1860s, during the first phase of tenement construction. It provided housing for people who were not allowed to live in hotels. For the first time there were private rooms. Each floor has four, three-room apartments, each of which had two windows in one of the rooms and none in the others. The privies were out back, as was the roof where water was provided for everyone. The public bathhouse was down the street.

In 1900 this block was the most crowded per acre on earth. Conditions improved after the passage of the New York Tenement House Act of 1901, though the crowding remained. Two toilets were installed on each floor. A light was installed over the stairway and interior windows were cut in the walls to allow some light through.

The first floor was the store. For the first time the ground floor became commercial space. In 1918 electricity was installed. Further improvements were mandated in 1935, but the tenement remained on a building up rather than follow the new standards. It remained boarded up for 60 years until the idea of a museum took hold.

The Tenth Street Tenement will keep at least one apartment in the dilapidated condition in which it was found when the museum was acquired. The museum plans to play an active role in the process of urban archaeology. Others will be restored to show how real families lived at different periods in the building’s history. At a nearby site there will be interpretive programs to help explain the larger experience of gaining a foothold on America in the Lower East Side of New York.

There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the Tenement Museum will make a profound social movement involving great numbers of unexceptional but courageous people.

This Act is vitally important given that the vast number of buildings just the house immigrants to New York City during the greatest wave of immigration in American history.

The museum will be well suited to represent a profound social movement involving great numbers of unexceptional but courageous people.

The museum serves as the first stop for many immigrants. The museum is dedicated to interpreting immigrant life on the Lower East Side and its importance to United States history, within a neighborhood associated with the immigrant experience in America; and

The museum is dedicated to the realization of this grand idea, and I ask my colleagues for their support.

I ask that the bill be printed in the RECORD.

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Lower East Side Tenement Museum National Historic Site Act of 1995.”

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Lower East Side Tenement Museum at 97 Orchard Street is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history; and

(2) the museum is well suited to represent a profound social movement involving great numbers of unexceptional but courageous people.

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

(1) to ensure the conservation, maintenance, and interpretation of this site and to interpret in the site and in the surrounding neighborhood, the themes of early tenement life, the housing reform movement, and tenement architecture in the United States; and

(2) to ensure the continuation of the Museum at this site, the preservation of which is necessary for the continued interpretation of the nationally significant immigrant phenomenon associated with the New York City’s Lower East Side, and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton National Historic Monument and Ellis Island National Historic Site through cooperation with the Museum.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term “historic site” means the Lower East Side Tenement Museum designated as a national historic site by section 4.

(2) MUSEUM.—The term “museum” means the Lower East Side Tenement Museum at 97 Orchard Street.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

To further the purposes of this Act and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, sites, objects, and natural significance, and for other purposes”, approved August 21, 1955 (16 U.S.C. 461 et seq.), the Lower East Side Tenement Museum at 97 Orchard Street, in the city of New York, State of New York, is designated as a national historic site.
be a significant addition to the site, a great improvement over the current situation. The parcel is now threatened with development, which would spoil the setting irrevocably. We need this authorization while the opportunity exists. Dutchess County is growing, and the pressure on such a river location will only increase.

Mr. President, I ask that my fellow Senators support this bill in recognition of its importance to Hyde Park. Roosevelt Cove was an integral part of FDR’s estate, and should be part of it once again. The Park Service is now authorized to acquire the land only through donation. This is not likely to happen. But the cost of the parcel is not great. Neither is our window of opportunity. I ask your support for the restoration of a crucial part of FDR’s home for the thousands of visitors that come each year. We will have their thanks.

I ask 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. 134

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

SECTION 1. ACQUISITION OF ROOSEVELT FAMILY LANDS.

(a) IN GENERAL.—The Secretary may acquire, by purchase with donated or appropriated funds, donated funds, or purchase with donated funds.

SEC. 5. ACQUISITION OR COOPERATIVE AGREEMENT.

(a) IN GENERAL.—The Secretary of the Interior may acquire, by purchase for the purpose of conducting visitors through the properties and interpreting the portions to the public; and (2) prohibit changes or alterations in the properties except by mutual agreement between the Secretary and the other parties to the agreement.

SEC. 6. LAND ACQUISITION.

The Secretary may acquire properties owned, occupied, or used by the Museum, or assist the Museum in acquiring properties that are part of its collections or uses, through the use of appropriated funds, donation, or purchase with donated funds.

SEC. 7. APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN:

S. 134. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes; to the Committee on Energy and Natural Resources.

THE HYDE PARK ACT OF 1996

Mr. MOYNIHAN Mr. President, I rise to introduce a bill which would authorize the Secretary of the Interior to purchase land that belonged to President Roosevelt and his family members at the time of his death. His estate at Hyde Park, New York, that was owned by Franklin D. Roosevelt or his family at the time of his death, as depicted on the map entitled “Roosevelt Family Estate” and dated November 19, 1939.

In accordance with the direction of the Committee on Energy and Natural Resources, there are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. HATCH:

S. 135. A bill to establish a uniform Federal process for protecting property owners’ rights guaranteed by the fifth amendment; to the Committee on the Judiciary.

THE PROPERTY RIGHTS LITIGATION RELIEF ACT OF 1995

Mr. HATCH. Mr. President, I am pleased today to introduce the “Property Rights Litigation Relief Act of 1995.” This Act is designed to protect private property from Federal Government overreach. The framers of our Constitution understood that the right to own property is a precious fundamental right, one which is vulnerable to an overbearing Federal Government.

This bill encompasses property rights litigation reform and establishes a distinct Federal fifth amendment “takings” claim against Federal agencies by aggrieved property owners, thus clarifying the sometimes incoherent and contradictory constitutional property rights case law. It also resolves the jurisdictional dispute between the Federal district courts and the Court of Federal Claims over fifth amendment “takings” cases. The bill is a refinement of a proposal I placed in the CONGRESSIONAL RECORD on October 7, 1994.

IMPORTANCE OF PRIVATE PROPERTY

The private ownership of property is essential to a free society and is an integral part of our Judeo-Christian culture and the Western tradition of liberty and limited government. Private ownership of property and the sanctity of property rights reflects the distinction in our culture between a preexisting civil society and the State that is subsequently established to promote order. Private property creates the social and economic organizations that counterbalance the power of the State by providing an alternative source of power and prestige to the State itself.

While government is properly understood to be instituted to protect liberty within an orderly society and such liberty is commonly understood to include the right of free speech, assembly, religious exercise and other rights such as those enumerated in the Bill of Rights, it is all too often forgotten that the right of private ownership of property is also a critical component of liberty. To the 17th century English political philosopher John Locke, who greatly influenced the Founders of our Republic, the very role of government is to protect property: “The great and chief end therefore, on Men uniting into Commonwealths, and putting themselves under Government, is the preservation of their property.” [J. Locke, Second Treatise ch. 9, §124, in J. Locke, Two Treatises of Government (1690)], the Framers of our Constitution likewise viewed the function of government as protecting the liberties through the protection of property interests. James Madison, termed the “Father of the Constitution,” unhesitantly endorsed this Lockean...
viewpoint when he wrote in The Federalist No. 54 that, "[government] is instituted no less for the protection of property, than of the persons of individuals." Indeed, to Madison, the private possession of property was viewed as a natural and individual right both to be protected against government encroachment and to be protected by government against encroachment.

To be sure, the private ownership of property was not considered absolute. Property owners could not exercise their rights as a nuisance that harmed their neighbors, and government could use eminent domain, its "despotic power" of eminent domain to seize property for public use. Justice, it became to be believed, required compensation for the property taken by government. The earliest example of a compensation requirement is found in chapter 28 of the Magna Carta of 1215, which reads, "No collateral or slippery bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor unless he can have postponed thereof by permission of the seller." But the record of English and colonial compensation for taking property was spotty at best, although it has been argued by some historians and legal scholars that compensation for takings of property became recognized as customary practice during the American colonial period. [See W. Stoebeck, "A General Theory of Eminent Domain," 47 Wash. L. Rev. 53 (1972).]

Nevertheless, by American independence the compensation requirement was considered a necessary restraint on arbitrary governmental seizures of property. The Vermont Constitution of 1777, the Massachusetts Constitution of 1780, and the Northwest Ordinance of 1787, recognized that compensation must be paid whenever property was taken for general public use or for public exigencies. And although accounts of the 1991 congressional debate over the Economic Rights Act provide no evidence of why the federal use and just compensation requirement for takings of private property was eventually included in the fifth amendment, J. James Madison, the author of the fifth amendment, reflected the views of other supporters of the new Constitution who feared the example to the new Congress of uncompensated seizures of property for building of roads and forgiveness of debts by radical state legislatures. Consequently, the phrase "[no] shall private property be taken for public use, without just compensation" was included within the fifth amendment to the Constitution.

THE MODERN THREAT TO PROPERTY RIGHTS

Despite this historical pedigree and the constitutional requirement for the protection of property, right today, America of the mid and late 20th century has witnessed an explosion of federal regulation of society that has jeopardized the private ownership of property with the consequent loss of individual liberty. Indeed, the most recent estimate of the direct (that is, not counting indirect costs such as higher consumer prices) cost of Federal regulation was $857 billion for 1992. Today, the cost to the society probably is approaching $1 trillion. According to economist Paul Craig Roberts, the number of laws Americans are forced to endure has risen to staggering 3000 percent since the turn of the century. Every day the Federal Register grows by an incredible 200 pages, containing new rules and obligations imposed on the American people by supposedly their own government.

Furthermore, even the very concept of private property is under attack. Indeed, certain environmental activists have termed private property an "outmoded concept" which presents an "impediment" to the Federal Government's resolution of society's problems. It is this type of thinking that has led regulators, in the rush of governmental social engineering, to ignore individual rights. Here are just a few of the hundreds—if not thousands—of examples that occur daily.

Ronald Angelocci was jailed for violation of the Clean Water Act for placing sand on a quarter-acre lot he owned; Ocie Mills, a Florida builder, and his son were sent to prison for 2 years for violating the Clean Water Act for placing sand on a quarter-acre lot he owned; for this same Act, a small Oregon school district faced a Federal lawsuit for dumping clean fill to build a baseball-soccer field for its students and had to spend thousands of dollars to remove the fill; Ronald Angelocci was jailed for violating the Clean Water Act for dumping several truckloads of dirt in the back yard of his Michigan home to help a family member who had acute asthma and allergies aggravated by plants in the yard; and a retired couple in the Poconos, after obtaining the necessary permits to build their home was informed by the Army Corps of Engineers—4 years later—that they built their home on wetlands and faced penalties of $50,000 a day if they did not restore most of the land to its natural state. [See B. Bovard, Lost Rights, 35 (1994); N. Marzulla, "The Government's War on Property Rights," Defenders of Property Rights (1994).]

CURRENT PROTECTION OF PROPERTY RIGHTS FALL SHORT

Judicial protection of property rights against the regulatory state has been both inconsistent and ineffective. Physical invasions and government seizures of property have been fairly easily recognized for what they are: violations of eminent domain, not so the effect of regulations which either diminish the value of the property or appropriate a property interest. This key problem to the regulatory takings dilemma was recognized by Justice Oliver Wendell Holmes in Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922). J ust how do courts determine when regulation amounts to a taking? Holmes' answer, "If regulation goes too far it will be recognized as a taking," 260 U.S. at 415, is nothing more than an ipse dixit. In the 73 years since Mahon, the Court has set for itself no set formula for determining how far is too far, preferring to engage in ad hoc factual inquiries, such as the three-part test made famous by Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978), which balances the economic impact of the regulation on property and the character of the regulation against specific restrictions on investment-backed expectations of the property owner.

Despite the valiant attempt by the Rehnquist Court to clarify regulatory takings analysis in Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987), Lucas v. South Carolina Coastal Council, 112 S.Ct. 2886 (1992), and in its recent decision of Dolan v. City of Tigard, No. 93±518 (June 24, 1994), takings analysis is basically incoherent and confusing and applied by lower courts haphazardly. The incremental, fact-specific approach that courts now must employ in the absence of adequate statutory language to vindicate property rights in the face of environmental social engineering, to ignore individual rights. Here are just a few of the hundreds—if not thousands—of examples that occur daily.

The Court has been ineffective and costly. There is, accordingly, a need for Congress to clarify the law by providing "bright line" standards and an effective remedy. As Chief Judge Loren A. Smith of the Court of Federal Claims opined in Conrail v. United States, 31 Fed. Cl. 37 (1994), "[j]udicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy."

This incoherence and confusion over the substance of takings claims is matched by the muddle over jurisdiction of property rights cases. The "Tucker Act," which waives the sovereign immunity of the United States for claims against the United States, was enacted by Congress to allow the Court of Claims to hear constitutional claims against the United States, actually complicates the ability of a property owner to vindicate the rights to just compensation for a government action that has caused economic harm. The law currently forces a property owner to elect between equitable relief in the Federal district and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court. This "Tucker Act shuffle" is aggravated by section 1500 of the Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and...
brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens in Keene Corporation v. United States, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment.

The Property Rights Litigation Relief Act addresses these problems. In terms of classifying the substance of takings claims, it first clearly expresses that legislation that is subject to the Act’s takings analysis. In this way a “floor” definition of property is established by which the Federal Government may not eviscerate. This Act also establishes the elements of a takings claim by codifying and clarifying the holding in Lucas v. South Carolina Lowcountry. It is well established that the Constitution prohibits the use of property in a manner that interferes with the government’s ability to prevent public health and safety. The Act simply does not obviate the government from acting to prevent imminent harm to the public safety or health or diminish what would be a public nuisance. Again, this is made clear in the provisions of the Act that exempts nuisance from compensation. What the Act does is force the Federal Government to pay compensation to those who are singled out to pay for regulations that benefit the entire public. In other words, it does not prevent regulation, but fulfills the promise of the Fifth Amendment, which the Supreme Court in Armstrong v. United States, 364 U.S. 40, 49 (1960), opined is “to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole.”

I invite all Senators to join me in sponsoring this legislation.

By Mr. THURMOND:

S. 136. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1 of the United States Code is amended by adding at the end thereof the following:


“Any Act of Congress enacted after the effective date of this section—

(1) shall be prospective in application only;

(2) shall not create a private claim or cause of action; and

(3) shall not preempt the law of any State, unless a provision of the Act specifies otherwise by express reference to the paragraph of this section intended to be negated.”

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 1 United States Code, is amended by adding at the end thereof the following:

“7. Rules for application and effect of legislation.”

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. President, I rise today to introduce an act to clarify the application and effect of legislation in order to reduce uncertainty and confusion which is often caused by congressional enactments. This act would provide that unless future legislation specified otherwise, new enactments would be applied prospectively, would not create private rights of action, and would not preempt existing State law. This would significantly reduce unnecessary litigation and court costs, and would benefit both the public and the judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not expressly state whether the legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation and contributes to the high cost of litigation in this country.

In the absence of action by the Congress on these critical threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in the litigation, a decision that the litigation can proceed generally cannot be appealed until the end of the appeal. The Supreme Court is frequently required to resolve these issues in each piece of legislation. This problem was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over this Nation were required to resolve whether the 1991 Act should be applied retroactively, and the issue was ultimately considered by the United States Supreme Court. But by the time the Supreme Court resolved the issue in 1994, over 100 lower courts had ruled on this question, and their decisions were split. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law are frequently presented in courts around the country, yielding expensive litigation and conflicting results.

The bill I am introducing today would eliminate this problem by providing a presumption that, unless future legislation specifies otherwise, new legislation is not to be applied retroactively, does not create a private right of action, and does not preempt State law. Of course, my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply referring to this act when it wishes legislation to be retroactive, create...
new private rights of action or preempt existing State law.

My act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. Although it is difficult to obtain statistics on this issue, one University District judge estimates that he spends up to 10 to 15 percent of his time on these issues. Regardless of the precise figure, it is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about reducing the costs of litigation and relieving the backlog of cases in our courts, we should help our judicial system to spend its limited resources, time and effort on resolving the merits of disputes, rather than deciding these preliminary matters.

I sent the bill to the desk and ask unanimous consent that it be printed in the Record in its entirety immediately following my remarks.

By Mr. BRADLEY (for himself, Mr. CAMPBELL, Mr. COATS and Mr. ROBY).—S. 137. A bill to create a legislative line-item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills; to the Committee on Rules and Administration.


Mr. BRADLEY. Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing and release must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit a wealthy few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line item veto.

I rise to introduce the Tax Expenditure and Legislative Appropriations Line Item Veto Act of 1995, legislation that, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line item veto bill that covers spending in both appropriations and tax bills. Any line item veto that the President has the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line item veto when I initially joined the Senate in 1989, inevitable pork barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these wasteful spending. In 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line item veto bills then in existence, I felt that we needed to be more honest about what forces the large part of the deficit. For every $4.48 billion earmarked in an appropriations bill, to teach civil servants skills, there is a $300 million special tax expenditure allowing wealthy taxpayers to rent their homes for two weeks without having to report any income. For every $150,000 appropriated for acoustical pest control studies in Oxford, Mississippi, there is a $2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop-dusters, and tax credits for clean-fuel vehicles.

In singling out these pork-barrel projects, I do not mean to pass judgment on their merits. However, because these provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto spending in appropriations bills but also in the tax code. If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the tax code. Spending is spending whether it comes in the form of an government check, or in the form of a special exemption from the tax code. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and tax credits so that we can bring down tax rates fairly, for everyone.

Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that the balance of power on budget issues has swung too far from the Executive toward the Legislative branch. There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in this direction. As this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues, Senators DOMENICI and NUNN, that a line-item veto is not in itself deficit reduction. But if the President is willing to use this appropriate tool to cut a certain kind of wasteful spending—the pork barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to count. But until we can cut these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103rd Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate proposition in the National Economic Commission, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to only one part of the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate
enrollment of appropriations provisions, may prove difficult at times, in the face of a debt rapidly approaching $5 trillion. I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

The legislation that I am proposing would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have formal process to determine whether the line item veto works as intended: Did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail members of Congress into supporting his own special interest expenditures? Did it allow the exercise of federal spending, either restraining the balance or shifting it too far in the other direction?

As the recent elections amply demonstrated, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 138. A bill to amend the Act commonly referred to as the “Johnson Act” to limit the authority of States to regulate gambling devices on vessels; to the Committee on Commerce, Science, and Transportation.

LEGISLATION AMENDING THE “JOHNSON ACT” RELATING TO CRUISE SHIPS

Mrs. BOXER. Mr. President, today Senator FEINSTEIN and I are introducing legislation to make a technical amendment to the law passed by the 102d Congress to allow gambling on U.S.-flag cruise ships and to allow States to permit or prohibit gambling on ships involved in intrastate cruises only.

This bill is essential to restoring California's cruise ship industry which has lost more than $250 million in tourist revenue last year and hundreds of jobs. Many California cruise ship companies have bypassed second and third ports of call within California. Ships which used to call at Catalina and San Diego after departing Los Angeles en route to Mexico no longer make those interim stops. According to industry estimates, San Diego alone has lost more than 104 cruise ship port calls last year—66 percent of its cruise ship business. The State's share of the global cruise tourism market has dropped from 10 percent to 7 percent at the same time growth in the cruise ship business overall has climbed 10 percent a year.

Historically, gambling has been prohibited aboard U.S.-flag cruise ships, putting them in a competitive disadvantage in the growing and lucrative cruise ship business where foreignflagged vessels calling at U.S. ports have had no such restriction. In order to level the playing field, Congress in 1992 amended the Johnson Act, the 1951 law outlawing the transportation of gambling devices from State to State, to allow gambling on U.S.-flag cruise ships. At the same time, Congress provided that States could pass their own laws allowing or prohibiting gambling on intrastate cruises.

The California Legislature, in an effort to prohibit gambling-only type cruises, subsequently passed legislation prohibiting ships with gambling devices from making multiple ports of call within the State. The legislature also was concerned that without such action to expressly prohibit gambling on intrastate cruises, the State could be required to permit certain gambling enterprises to open their casinos under the Indian Gaming Act. Some Indian tribes contended that if the State permitted casino gambling on the high seas between State ports of call, then it should also permit full-fledged casino gambling within the State. California's efforts to prohibit gambling "cruises to nowhere" have had the effect of prohibiting gambling on cruise ships traveling between California ports, even if part of an interstate or international journey. In effect, a cruise ship traveling from San Diego to Los Angeles could no longer open its casinos, even in international waters. But if the ship bypassed San Diego and sailed directly to a foreign port, it could open its casinos as soon as it was in international waters.

My legislation would resolve this problem by allowing a cruise ship with gambling devices to make multiple ports of call in one State and still be considered to be on an interstate or international voyage for purposes of the Johnson Act, if the ship reaches out-of-State or foreign port within 3 days. The legislation should alleviate California's concern regarding the Indian gaming law by removing such voyages from its jurisdiction and it should give the cruise ship industry to continue to make multiple ports of call in the State.

Gambling operations still would only be permitted in international waters. The effect would expand only the nongambling aspects of cruise ship tourism by permitting more ports of call within the State. California is the only State affected by this bill because it is the only State which responded to the 1992 changes to the Johnson Act and enacted a State law to prohibit gambling.

Specifically, my legislation adds a new subparagraph to the Johnson Act, providing that a State prohibition does not apply on a voyage or segment of a voyage that: first, begins and ends in the same State; second, is part of a voyage to another State or country; and third, reaches the other State or country within 3 days after leaving the State in which it begins. The legislation does not affect a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii.

I urge my colleagues to support this legislation to overcome this serious impediment to California's tourism industry, the top industry of the State. I also urge prompt consideration of this bill in order to forestall further loss of jobs and revenue to California in the coming cruise ship season.

SECTION 1. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act (January 2, 1951 (commonly referred to as the "Johnson Act") (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following new subparagraph:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

(i) that begins and ends in the same State;

(ii) that is part of a voyage to another State or to a foreign country; and

(iii) that leaves a port in the State of Hawaii and reaches the other State or foreign country within 3 days after leaving the State in which such segment begins."

Mrs. FEINSTEIN. Mr. President, I am pleased to cosponsor Senator BOXER's legislation that is critical to the ports of California. Ports are a vital component of the infrastructure of those States located along the coasts of this country. Commercial cruises are an important contributor to the well-being of our ports, and are critical to the economic viability of a number of port cities in California.

In 1993, the Johnson Act was amended to allow gambling on U.S.-flag cruise ships with the provision that States could regulate gambling on these cruise vessels. Since that time, California has passed a law prohibiting gambling on intrastate cruises for reasons that were in fact unrelated to the cruise industry. Because of California's coast line is so long, cruise ships with onboard gaming are unable to make
more than one port of call in the state without being subject to State regulation.

Consequently, cruise ships bypass cities where they would otherwise stop, with a detrimental impact resulting to those ports that are passed over. TheSan Diego Port of Port Commissioners estimated that San Diego alone has lost 77 cruise line calls, and $30 million in tourism benefit. Smaller port cities such as Eureka are struggling to attract cruise vessels to bolster its economy, but will likely be bypassed by cruise lines if one stop within a State's borders, to make additional stops within that State as part of a longer voyage.

What this legislation will do is provide an important economic boost to port cities in California, and we urge its quick consideration and passage.

By Ms. SNOWE:

S. 135 A bill to provide that no State or local government shall be obligated to take any action required by Federal law enacted after the date of the enactment of this Act unless the expenses of such government in taking such action are funded by the United States; to the Committee on Governmental Affairs.

UNFUNDED MANDATES LEGISLATION

Ms. SNOWE. Mr. President, today marks a day of historic opportunity for all Americans. On November 8th, a message was delivered to Congress by the citizens of Bangor, ME and San Luis Obispo, CA—residents of International Falls, MN and Corpus Christi, TX. The message was simple: change the manner in which Congress does business and change the course our nation has taken.

Ironically, many people thought this same message delivered in 1992—but most Americans believe it fell on deaf ears once it reached the Beltway. Congress continued to pursue legislative efforts that were either out of sync with the American people or ran in direct opposition to their desires. I heard the message from the citizens of Maine loud and clear and recognize that my election is revocable trust. If I lose the message was delivered to Congress by all Americans. On November 8th, a message was delivered to Congress by the citizens of Bangor, ME and San Luis Obispo, CA—residents of International Falls, MN and Corpus Christi, TX. The message was simple: change the manner in which Congress does business and change the course our nation has taken.

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still be Federal funds with Federal strings.

With this legislation, the States will use their own money, and will carry the full responsibility for designing and operating a system which provides a safety net for low-income individuals and families. This draws a clear distinction between the role of the Federal Government and the States—a distinction which makes sense for two reasons:

First, giving states both the power and the responsibility for welfare—with their own money and with control over what they do—will create powerful incentives for finding more effective ways to assist families in need. Nearly half the states already are experimenting with welfare reform systems that would give them broad freedom to test new ideas.

Second, I do not think Washington can reform welfare in any meaningful, lasting way. The reality is that we cannot write a single welfare plan that makes sense for five million families in fifty different and very diverse states.

Washington does not have a magic answer, any more than the panaceas Governor and State legislators have no magic solutions either, but they have the potentially critical advantage of being closer to the people involved, closer to the problems, and closer to the day-to-day realities of making welfare work.

In this case, I believe proximity does matter, perhaps powerfully so. One of the most important factors in whether families succeed or fail is their connection to a community, to a network of support.

For some families, this is found in relatives or friends. For others, it might be a caring caseworker, a teacher or principal, a local church, a city or county official. These human connections are not something we can legislate, and they are not something that money can buy.

True welfare reform will require a renewal of local and state responsibilities for children and families in need. I believe it happens when the Federal Government steps aside and allows the States to get on with this work.

At the same time, the Medicaid Program is badly in need of reform. Like the largest welfare programs, responsibility for both financing and administration of Medicaid is split between the State and Federal Governments.

As a result, Medicaid is now a baffling maze of inconsistent standards and dramatic variations from State to State. The system sometimes leads to illogical, or even unfair, results. Some States will cover an infant up to 185 percent of poverty, while leaving his penniless father with no coverage at all. While most people believe that Medicaid is the welfare problem. The poor, in reality it covers only half of those Americans living in poverty.

Medicaid’s design has also encouraged the Federal Government to heap costly benefit and eligibility mandates on the States. These mandates have added fuel to Medicaid costs that were already burning out of control. Medicaid costs doubled between 1989 and 1992, and have become the fastest-growing component of State budgets. The share of State revenue devoted to Medicaid has jumped from 9 percent in 1960 to nearly 20 percent today, and is expected to double again by the end of the decade.

In addition, Medicaid is virtually the only source of long-term care protection in a society that is now aging faster than at any time in its history. While elderly and disabled Americans consume only 12 percent of Medicaid beneficiaries, they consume nearly 70 percent of all Medicaid costs. These 9 million Americans represent an irreducible—and rapidly growing—group of patients whose medical expenses are often too low to extend for too long duration, for anyone other than the Government to pay the bill.

The legislation I am introducing today will immediately begin addressing these problems. Later this year, I expect another bill to simplify the crazy-quilt of Medicaid eligibility standards, streamline the scope of benefits offered, and bring costs under control by transforming Medicaid into a more market-based system.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 140

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 “Welfare and Medicaid Responsibility Exchange Act of 1995.”

SEC. 2. EXCHANGE OF FINANCIAL RESPONSIBILITIES FOR CERTAIN WELFARE PROGRAMS AND THE MEDICAID PROGRAM.

(a) IN GENERAL.—In exchange for the Federal funds received by a State under section 3 for fiscal years 1997, 1998, 1999, 2000, and 2001, such State shall provide cash and non-cash assistance to low income individuals in accordance with subsection (b).

(b) REQUIREMENT TO PROVIDE A CERTAIN LEVEL OF LOW INCOME ASSISTANCE.

(1) IN GENERAL.—The amount of cash and non-cash assistance provided to low income individuals by a State for any quarter during fiscal years 1997, 1998, 1999, 2000, and 2001 shall not be less than the sum of—

(A) the amount determined under paragraph (2); and

(B) the amount determined under paragraph (3).

(2) MAINTENANCE OF EFFORT WITH RESPECT TO FEDERAL PROGRAMS TERMINATED.—

(A) QUARTER BEGINNING OCTOBER 1, 1996.—The amount determined under this paragraph for the quarter beginning October 1, 1996, is an amount equal to the sum of—

(i) one-quarter of the base expenditures determined under subparagraph (C) for the State,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs terminated under section 4.

(B) SUCCEEDING QUARTERS.—The amount determined under this paragraph for any quarter beginning on or after January 1, 1997, is an amount equal to the sum of—

(i) the amount expended by the State under subsection (a) in the preceding quarter;

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter;

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs for the State during the 12-month period beginning on july 1, 1995; and

(iv) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs for the State during the 12-month period beginning on july 1, 1995.

(3) MAINTENANCE OF EFFORT WITH RESPECT TO STATE PROGRAMS.—The amount determined under this paragraph is the amount of State expenditures for such quarter required to maintain State programs providing cash and non-cash assistance to low income individuals. Such programs were in effect during the 12-month period beginning on july 1, 1995.

SEC. 3. PAYMENTS TO STATES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall make quarterly payments to each State during fiscal years 1997, 1998, 1999, 2000, and 2001 in an amount equal to one-quarter of the amount determined under subsection (b) for the applicable fiscal year. Such payments shall be used for the purposes described in subsection (c).

(b) PAYMENT EQUIVALENT TO FEDERAL WELFARE SAVINGS.—

(1) IN GENERAL.—The amount available to be paid to a State for a fiscal year shall be an amount equal to the amount calculated under paragraph (2) for the State.

(2) AMOUNTS AVAILABLE.—

(A) FISCAL YEAR 1997.—In fiscal year 1997, the amount available under this subsection for a State is equal to the sum of—

(i) the base amount determined under paragraph (3) for the State;

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs terminated under section 4.

(B) SUCCEEDING FISCAL YEARS.—The amount determined under this paragraph for any fiscal year beginning on or after January 1, 1998, is an amount equal to the sum of—

(i) the amount expended by the State under subsection (a) in the preceding quarter;

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter;

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs for the State during the 12-month period beginning on july 1, 1995; and

(iv) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs for the State during the 12-month period beginning on july 1, 1995.
the State in fiscal year 1997 under the programs. The section is reenacted by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(B) SUCCEEDING FISCAL YEARS.—In any succeeding fiscal year, the amount available under this subsection for a State is equal to the sum of—

(i) the amount determined under this paragraph for the State in the previous fiscal year,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers in the United States city average) during the previous fiscal year, and

(iii) the amount that the Federal Government would have expended in the State in the fiscal year under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(3) DETERMINATION OF BASE AMOUNT.—The Secretary of Health and Human Services, in cooperation with the Secretary of Agriculture, shall calculate the amount that the Federal Government expended for administering and providing—

(A) aid to families with dependent children under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(B) benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(C) benefits under the special supplemental program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), in each State during the 12-month period beginning on July 1, 1995.

(c) PURPOSES FOR WHICH AMOUNTS MAY BE EXPENDED.

(I) MEDICAID PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during fiscal years 1997, 1998, 1999, 2000, and 2001 a State shall—

(1) except as provided in subparagraph (B), provide medical assistance under title XIX of the Social Security Act in accordance with the terms of the State's plan in effect on January 1, 1995, and

(2) use the funds it receives under this subpart toward the State's financial participation for expenditures made under the plan.

(B) CHANGES IN ELIGIBILITY.—A State may change State plan requirements relating to eligibility for medical assistance under title XIX of the Social Security Act if the aggregate expenditures under such State plan for the fiscal year do not exceed the amount that would have been spent if a State plan described in subparagraph (A)(i) had been in effect during such fiscal year.

(C) WAIVER OF REQUIREMENTS.—The Secretary of Health and Human Services may grant a waiver of the requirements under subparagraphs (A)(i) and (B)(i) if a State makes an adequate showing of need in a waiver application submitted in such manner as the Secretary determines appropriate.

(D) DENIAL OF PAYMENTS FOR FAILURE TO MAINTAIN EFFORT.—No payment shall be made under subsection (a) for a quarter if a State fails to comply with the requirements of section 2(b) for the preceding quarter.

(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts for the Federal Government to provide the payments described in subsection (a).

SEC. 4. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION.

(I) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY

SEC. 418. The authority provided by this part shall terminate on October 1, 1996.

(2) J OBS.—Part F of title IV of the Social Security Act (42 U.S.C. 661 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY

SEC. 488. The authority provided by this part shall terminate on October 1, 1996.

(3) SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following new section:

"(q) The authority provided by this section shall terminate on October 1, 1996.

(4) FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following new section:

"SEC. 24. TERMINATION OF AUTHORITY.

"The authority provided by this Act shall terminate on October 1, 1996.

(b) REFERENCES IN OTHER LAWS.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 5. FEDERAL FUNDING OF THE MEDICAID PROGRAM.

Beginning on October 1, 2001—

(1) each State with a State plan approved under title XIX of the Social Security Act shall be relieved of financial responsibility for the Medicaid program under such title of such Act,

(2) the Secretary of Health and Human Services shall assume such responsibilities and continue to conduct such program in a State in any manner determined appropriate by the Secretary that is in accordance with the provisions of title XIX of the Social Security Act, and

(3) all expenditures for the program as conducted by the Secretary shall be paid by Federal funds.

SEC. 6. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND AdminISTRATIVE AMENDMENTS.

The Secretary of Health and Human Services shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.
The Kassebaum/Brown welfare reform bill lets States do just what Colorado did—reject Federal mandates, but without the seemingly endless delays by the Washington bureaucracy before the reforms can be implemented. Under the Kassebaum/Brown bill, States like mine would no longer have to comform to Washington for a welfare program waiver. With this bill, we can allow states to continue what they’ve already started—actually reforming welfare.

This approach makes sense. States do not need Washington’s money with lots of strings attached, as is likely under a block grant approach. You’ve heard of the uncola—well, this is the unmandate. The Kassebaum/Brown bill takes seriously our commitment to end unfunded Federal mandates. 

By MRS. KASSEBAUM (for herself, MR. EFFORDS, MR. CHAFFEE, MR. COATS, MR. GREGG, MR. BROWN, MR. CRAIG, MR. NICKLES, MR. COCHRAN, MR. DOMENICI, MR. GRASSLEY, MR. SIMPSON, MR. WARNER, MR. PRESSLER, and MR. GRAMS):

S. 141 A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes; to the Committee on Labor and Human Resources.

THE DAVIS-BACON REPEAL ACT

MRS. KASSEBAUM. Mr. President, today I am introducing a bill, along with my colleagues, Senators JEFFORDS, CHAFFEE, COATS, GREGG, BROWN, CRAIG, NICKLES, COCHRAN, DOMENICI, GRASSLEY, SIMPSON, WARNER, PRESSLER, and GRAMS, to repeal the Davis-Bacon Act of 1931, an outdated law that restricts Federal public works projects to meet prevailing wage conditions and work rules. This legislation is long overdue. 

Congress enacted the Davis-Bacon Act during the Depression amid concern that bidding for large Federal construction projects would lead to cutthroat competition from out-of-state contractors that would drive down local wage rates. That might have been a valid concern during the Depression, but it is no longer the case. 

Due to the Department of Labor’s method of computing the “prevailing” wage, Davis-Bacon often requires Federal contractors to pay their workers at a rate considerably higher than the market rate. In addition, Davis-Bacon requires contractors to follow work rules that prevail in the locality. 

The public is ill-served by these wage rate and work rule restrictions. We lose the benefit of workplace innovations that improve quality and productivity at a cost of completing construction projects. Numerous studies have shown that Davis-Bacon wage inflation and work rule requirements raise Federal construction costs by 5 to 25 percent. As a result, the Davis-Bacon Act exacerbates our budget deficit, driving Federal contracting costs by $3 billion over the 5-year budget cycle. 

Mr. President, construction is one of the last sectors of our economy where low-skill individuals can be trained on the job for a few months and then earn a decent living. Young men and women in the inner city, many of whom are minorities, eagerly seek this work. 

But Davis-Bacon’s prevailing wage and work rules protections prevent contractors from hiring and training these young men and women from the American workforce in contradiction to our national goal of expanding employment. This is one reason why the National League of Cities endorses Davis-Bacon repeal. 

Mr. President, Davis-Bacon decreases competition, raises construction costs, and diminishes employment opportunities. I urge my colleagues to support Davis-Bacon repeal, and ask unanimous consent that the text of the bill appear in the RECORD. 

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

S. 141 A bill to repeal the Davis-Bacon Act of 1931.

S. 141 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 “Davis-Bacon Repeal Act.”


SEC. 3. REPORTING REQUIREMENTS. Section 2 of the Act of June 21, 1934 (42 U.S.C. 276c) (commonly known as the “Copeland Act”) is repealed.

SEC. 4. EFFECTIVE DATE. The provisions of this Act shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitation for bids outstanding on that date.

NSBA, January 4, 1995

Hon. Nancy Landen Kassebaum, United States Senate, Washington, DC.

DEAR SENATOR KASSEBAUM: The National School Boards Association (NSBA) supports repeal of the Davis-Bacon Act. NSBA represents 95,000 locally elected school board members in nearly 16,000 school districts nationwide. The Davis-Bacon Act has resulted in enormous cost differentials from state to state in the new construction and renovation of school buildings. The Act has skewed local decision-making regarding the school districts’ ability to accept Federal funds to meet construction needs. NSBA understands between your own state of Kansas and the neighboring state of Missouri, school construction is 20 percent higher in Missouri because of the state Davis-Bacon Act. 

The Davis-Bacon Act requires contractors of Federally-funded construction projects to pay the “prevailing local wage,” which is usually the union rate, often 10 to 25 percent higher than the non-union private sector pay. This mandate was intended to prevent low-skill individuals from getting low-wage, itinerant work. We underbid contractors for vacant government contracts during the Depression. 

The National School Boards Association calls for the repeal of the Davis-Bacon Act. We appreciate your interest in this costly problem for many school districts.

Sincerely,

BOYD W. BOEHLJE, President.

THOMAS A. SHANNON, Executive Director.

Mr. CHAFFEE. Mr. President, I am pleased to join the distinguished Chair of the Labor and Human Resources Committee, Senator NANCY KASSEBAUM, in introducing theDavis-Bacon Repeal Act. I wish to commend the fine work of Kansas Senator Kassebaum in advancing this important initiative, which the Congressional Budget Office estimates would save $3.3 billion over 5 years. The Davis-Bacon Act requires that minimum wage rates paid on all Federally-financed construction projects be set at a rate considerably higher than the non-union private sector rate. This mandate was intended to prevent low-skill individuals from getting low-wage, itinerant work. We underbid contractors for vacant government contracts during the Depression. The Act has outlived its usefulness.

The time has come to do away with this antiquated Depression-era statute. The Act significantly increases the cost of Federal construction, restricts competition, and discourages the hiring of minorities, dislocated workers, and job trainees.

Through my tenure on the Environment and Public Works Committee, I have become all too familiar with the negative toll this statute exacts on our Federal highway program. Of the $3 billion a year in added Federal construction costs resulting from the Davis-Bacon Act, $300 to $500 million comes from the Federal highway program. So-called “little” Davis-Bacon laws, which exist in some 37 States and the District of Columbia, exact a further toll on Federal highway funds of approximately $60 million a year.

The inflationary impact of Davis-Bacon means the funds we have dedicated to modernizing our critical highway infrastructure are building fewer miles of additional roadways and reducing overall productivity. The Federal Highway Administration estimates that the act inflates highway construction wages by 8-10 percent, with increased administrative burdens on contractors and contracting agencies amounting to over $100 million annually.

The motoring public, which pays into our Highway Trust Fund in the form of Federal fuel excise taxes, deserves competitive contracting to ensure the most prudent use of these critical resources. While there was a time when the Davis-Bacon Act helped to ensure fair wages, the sad truth today is that its primary purpose is to guarantee non-competitive wages to union contractors. Though the act is intended to help smaller contractors, including minority-owned firms, the Federal paperwork requirements to comply with Davis-Bacon are so daunting most elect not to seek such business. Instead,
large multistate union contractors remain the primary beneficiaries. Tragically, the restrictive requirements associated with the Davis-Bacon Act have had the effect of hurting women, minorities, trainees, and others who are most often hired by small and minority firms.

For these reasons, I will press for the expeditious consideration and enactment of the Davis-Bacon Repeal Act over the coming months. Thank you.

By Mrs. KASSEBAUM:

S. 142. A bill to strengthen the capacity of State and local public health agencies to carry out the functions of public health, by eliminating administrative barriers and enhancing State flexibility, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH ENHANCEMENT ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation aimed at consolidating the numerous grant programs of the Centers for Disease Control and Prevention—CDC. A second goal is to examine the Federal role in disease prevention and control.

The two central provisions of this proposal would strengthen our Nation's public health system by increasing Federal and State flexibility and reducing administrative costs. The primary provision would consolidate 12 different grant programs into a core functions of public health block grant. Core functions of public health are those which any public health department should undertake to protect and ensure the health of the public.

The other key provision would combine 28 demonstration project funding streams into one flexible authority. Under this authority, CDC would address public health needs of regional and national significance through technical assistance to States and time-limited, research and development projects.

As many of my colleagues remember, the last legislative reorganization of the CDC grant programs occurred in 1981. At that time, the current preventive health and health services block grant was created through the combination of seven categorical grant programs. The CDC also retained its authority to conduct three categorical programs. The CDC also retained its authority to conduct three categorical programs. The CDC also retained its authority to conduct three categorical programs.

Since then, Congress has acted eight times to create narrowly defined administrative burdens and limited flexibility afforded by the 12 current funding streams. I am encouraged by the CDC's internal review of its own programs. However, I remain concerned that it will not go far enough in its attempt to consolidate these programs. As such, I offer this legislation today as one example of program consolidation which I would encourage the CDC to consider.

Mr. President, to examine the Federal role in disease prevention and control, this legislation contains a provision which would have the CDC report to the Secretary of Health and Human Services. This mission was again reconfirmed by the CDC under the leadership of Dr. Roper when it developed its vision statement in 1992: "The vision of the CDC is healthy people in healthy world: through prevention."

Historically, CDC has a role in disease prevention. This dates back to the administrative function described by Dr. Poole in the last 1970's he redirected CDC into disease prevention. This vision was again reconfirmed by the CDC under the leadership of Dr. Roper when it developed its vision statement in 1992: "The vision of the CDC is healthy people in healthy world: through prevention."

Concerns have been raised about my approach which I would like to address. First, some suggest that States will not use their core functions of public health block grant to address their most pressing public health problems. For instance, those involved with the current CDC community-based HIV prevention initiative question if States would continue to carry out HIV prevention programs.

My legislation ensures that States would address their most pressing public health problems only when it addresses the most pressing public health problems. Such a report would foster a review of the CDC's internal review of its own programs. However, I remain concerned that it will not go far enough in its attempt to consolidate these programs. As such, I offer this legislation today as one example of program consolidation which I would encourage the CDC to consider.

Mr. President, to examine the Federal role in disease prevention and control, this legislation contains a provision which would have the CDC report to Congress on the benefits of its activities. Such a report would foster a review of the CDC's internal review of its own programs. Given the changes created by this legislation, I believe this is important. Additionally, I believe such a review of CDC activities is in order given the broad mandate CDC has for both disease control and disease prevention.

The second goal is to examine the Federal role in disease prevention and control.

It is the purpose of this title to strengthen the capacity of State and local public health agencies to carry out core functions of public health, by eliminating administrative barriers, and enhancing State flexibility.

TITLES I—FORMULA GRANTS FOR STATE CORE FUNCTIONS OF PUBLIC HEALTH

SEC. 101. PURPOSE.

It is the purpose of this title to strengthen the capacity of State and local public health agencies to carry out core functions of public health, by eliminating administrative barriers, and enhancing State flexibility.

SEC. 102. FORMULA GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended—

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

"PART A—FORMULA GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH;"

(2) by repealing sections 1901 through 1907;

(3) by inserting after the part heading the following new sections:

"SEC. 1901. GRANTS.

(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make grants to States in accordance with the formula described in subsection (d) for the purpose of carrying out the functions described in subsection (b).

(b) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For purposes of subsection (a) and subject to the funding agreement described in subsection (c), the functions described in this subsection are as follows:

(1) Data collection and activities related to public health measurement and outcomes monitoring (including gender differences, ethnic identifiers, and health differences between racial and ethnic groups), and analysis for planning and needs assessment.

(2) Activities to protect the environment and assure the safety of housing, workplaces, food and water, and the public health of communities (including support for poison control centers and preventive health services programs to reduce the prevalence of chronic diseases and to prevent unintentional and unintentional injuries).

(3) Investigation and control of adverse health conditions.
January 4, 1995

(4) Public information and education programs.

(5) Accountability and quality assurance activities, including quality of personal health services and any communities' overall access to health services.

(6) Provision of public health laboratory services.

(7) Training and education with special emphasis placed on the training of public health professionals and occupational health professionals.

(8) Leadership, policy development and administration activities.

(9) Restrictions on use of grant.

(1) In general.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

(a) to provide any service that the State has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this section. Investigations required under this subparagraph shall be conducted within the fiscal year following the fiscal year in which the funds are paid to the State.

(b) to make cash payments to intended recipients of health services;

(d) to purchase or improve land, purchase, construct, or permanently improve equipment; or

(e) to modify any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(2) Limitation on administrative expenses. — The provisions of law described in paragraph (1) shall not apply to the collection, compilation, or mechanical reproduction of any information not readily available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, inspection, copying, or mechanical reproduction of any records or information of such State or an entity which has received funds from an allotment made to a State under this section, shall make available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, inspection, copying, or mechanical reproduction of any records or information of such State or an entity which has received funds from an allotment made to such State under this section in accordance with the requirements of this section.

(3) Reduction in payments. — The Secretary may withhold funds under this section if the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(4) Proceeding. — The Secretary may not institute proceedings to withhold funds under this paragraph unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this section. Investigations required under this subparagraph shall be conducted within the fiscal year following the fiscal year in which the funds are paid to the State.

(5) Availability of books and records. — Each State, and each entity which has received funds from an allotment made to a State under this section, shall make available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, inspection, copying, or mechanical reproduction of any records or information of such State or an entity which has received funds from an allotment made to the State under this section or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(6) Limitation. — Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

(7) Indian tribes or tribal organizations. —

(A) In general.—The Secretary shall conduct investigations of the use of funds received under this section by Indian tribes or tribal organizations serving within any State that funds under this title would otherwise be allotted to such Indian tribe or tribal organization; and

(B) determines that the members of such Indian tribe or tribal organization would be better served by means of grants made directly by the Secretary under this section, the Secretary shall reserve from amounts which would otherwise be allotted to such State under the formula under subsection (d) for the fiscal year the amount determined under paragraph (2).

(2) Reservation. — The Secretary shall reserve, for the purposes of paragraph (1), from amounts that would otherwise be allotted to the State under the formula under subsection (d), an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the amount provided or allotted for fiscal year 1996 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (d)(2)(B) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions.

(3) Grants. — The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization and shall be available to the individuals for whom such a determination has been made.

(4) Plan. — In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year in accordance with section 1902.

(5) Definitions. — As used in this subsection, the terms 'Indian tribe' and 'tribal organization' have the same meaning given in section 3 of the Indian Self-Determination and Education Assistance Act.

(6) Accountability. — The provisions of subsection (d)(3) relating to accountability shall apply to this subsection.

(7) Authorization of appropriations. —

(A) Indian tribes or tribal organizations. —

(i) In general.—For the purpose of making grants under this section, there are authorized to be appropriated, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.

(B) Administrative expenses. — The Secretary may use not more than 5 percent of the amounts appropriated in any fiscal year under paragraph (1) for expenses related to the administration of grants made directly by the Secretary under this section.

(3) Reduction in payments. — The Secretary, at the request of a State or Indian Tribe, may reduce the amount of payments under this section by not more than 5 percent if the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(4) Plan. — In order for a State or Indian Tribe to be eligible for a grant for a fiscal year under this subsection, a written plan for such fiscal year shall be submitted to the Secretary by the State or Indian Tribe in accordance with section 1902.

(5) Definitions. — As used in this subsection, the terms 'Indian tribe' and 'tribal organization' have the same meaning given in section 3 of the Indian Self-Determination and Education Assistance Act.

(6) Accountability. — The provisions of subsection (d)(3) relating to accountability shall apply to this subsection.

(7) Authorization of appropriations. —

(A) Indian tribes or tribal organizations. —

(i) In general.—For the purpose of making grants under this section, there are authorized to be appropriated, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.

(B) Administrative expenses. — The Secretary may use not more than 5 percent of the amounts appropriated in any fiscal year under paragraph (1) for expenses related to the administration of grants made directly by the Secretary under this section.

(3) Reduction in payments. — The Secretary, at the request of a State or Indian Tribe, may reduce the amount of payments under this section by not more than 5 percent if the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.
HEALTH EXPENDITURES.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures for core public health functions at a level that is not less than the level of such expenditures, adjusted for changes in the Consumer Price Index, maintained by the United States prior to the fiscal year preceding the first fiscal year for which the State receives such a grant. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop uniform criteria to help States identify their public health department expenditures that shall be used in calculating core public health expenditures.

"(2) REDUCTIONS.—The Secretary may reduce the amount of any grant awarded to a State if the application for the grant under this section by an amount that equals the amount by which the Secretary determines that the State has reduced State expenditures for core public health functions.

"SEC. 1902. APPLICATION.—(a) DEVELOPMENT OF UNIFORM APPLICATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop a uniform application that States shall use to apply for grants under this part. In developing such uniform application, the Secretary shall require the provision of information consistent with data on the interventions comprising and the functions that shall be used in calculating core public health functions.

"(b) STATE ASSURANCES.—An application submitted under this part shall include the following:

"(1) A description of the existing deficiencies and successes in the public health system of the State based upon indicators included in the uniform application data set.

"(2) A plan to improve such deficiencies and to continue successes. Such plan shall have been developed with the broadest possible input from State and local health departments and public and non-profit private entities performing core functions of public health in that State. In compiling such plan the Secretary shall consider why funding for a successful intervention continues to be needed, including a description of the detriment that would occur if such funding were not to continue, and the indicators found in the uniform application data set.

"(3) A description of the activities of the State for the previous year, including the problems addressed and changes made in the relevant health indicators included in the uniform application data set.

"(4) Information concerning the maintenance of grant requirements described in section 1901(h).

"SEC. 1903. UNIFORM CORE PUBLIC HEALTH FUNCTIONS REPORTING SYSTEM.

"(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall prepare and submit to the President and to the appropriate committees of Congress a report that shall contain—

"(1) a description of the activities carried out by and through the Centers for Disease Control and Prevention and the policies with respect to such programs and such recommendations concerning such policies and proposals for legislative changes in the Public Health Service Act as the Secretary considers appropriate; and

"(2) a description of the activities undertaken to improve and streamline grants and contracting accountability within such Centers.

"(b) TIME FOR REPORTING.—Not later than July 1, 1996, the Secretary shall submit the report required by subsection (a). Such report shall relate to fiscal year 1995, to the implementation of part A of title XIX of the Public Health Service Act (as amended by section 301(e) of such Act) and a program of the type described in section 1901(h) of such Act (as added by section 202).

"SEC. 201. REPORT OF DIRECTOR OF CENTERS FOR DISEASE CONTROL AND PREVENTION ACTIVITIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall prepare and submit to the President and to the appropriate committees of Congress a report that shall contain—

"(1) a description of the activities carried out by and through the Centers for Disease Control and Prevention, and the policies with respect to such programs and such recommendations concerning such policies and proposals for legislative changes in the Public Health Service Act as the Secretary considers appropriate; and

"(2) a description of the activities undertaken to improve and streamline grants and contracting accountability within such Centers.

"(b) TIME FOR REPORTING.—Not later than July 1, 1996, the Secretary shall submit the report required by subsection (a). Such report shall relate to fiscal year 1995, to the implementation of part A of title XIX of the Public Health Service Act (as amended by section 301(e) of such Act) and a program of the type described in section 1901(h) of such Act (as added by section 202).

"SEC. 202. PRIORITY PUBLIC HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

"Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall address priority public health needs of regional and national significance through the provision of—

"(A) training and technical assistance to States, political subdivisions of States, and public or private nonprofit entities through direct assistance or grants or contracts;

"(B) research into the prevention and control of conditions; or

"(C) demonstration projects for the prevention and control of diseases.

"In carrying out subparagraphs (B) and (C), the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, and public or private nonprofit entities.

"(2) Priority public health needs of regional and national significance may include, emerging infectious diseases, environmental and occupational threats, chronic diseases, injuries, and other priority diseases and conditions as determined appropriate by the Secretary.

"(3)(A) Recipients of grants, cooperative agreements, and contracts under this subsection shall include, but need not be limited to, States, political subdivisions of States, and public or private nonprofit entities.

"(B) With respect to a grant, cooperative agreement, or contract awarded under this subsection, the period during which payments under such award are made to the recipient may not exceed 5 years.

"(C) The Secretary may reduce the amount of payments under this subsection by—

"(1) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

"(2) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(II) a public or private nonprofit entity, may reduce the amount of payments under this subsection by—

"(1) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public or private nonprofit entity; and

"(2) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private nonprofit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee.

"(III) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public or private nonprofit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;
TITLE III—REPEALS
SEC. 301. REPEALS.

(a) IN GENERAL.—The following provisions of the Public Health Service Act are repealed:

(1) Paragraph (A) of section 317(j)(1) (42 U.S.C. 247b(j)(1)(A)) is amended by striking the sub-

(2) Section 317A (42 U.S.C. 247b-1).

(3) Subsection (g) of section 317E (42 U.S.C. 247b-6(g)).

(4) Subsection (e) of section 318 (42 U.S.C. 247c(e)).

(5) Subsection (g) of section 318A (42 U.S.C. 247c-1a).

(6) Section 1510 (42 U.S.C. 300n-5).

(b) CONFORMING AMENDMENT.—Subpara-

section 317(j)(1)(A) is amended by striking the sub-

paragrap sign designation.

PUBLIC HEALTH ENHANCEMENT ACT OF 1995—SUMMARY

CORE FUNCTIONS OF PUBLIC HEALTH BLOCK GRANT

1. Each state or tribal organization would perform eight core functions of public health to address their unique public health problems in order to receive funding through the block grant. Each of these activities are recognized as functions any public health department should undertake to protect the health of the public. The eight core functions are:

- Data collection and analysis for planning and needs assessment;
- Activities to protect the environment and to assure the safety of housing, work-places, food and water, and the public health of communities;
- Investigation and control of adverse health conditions;
- Public information and education programs to reduce risks to health;
- Accountability and quality assurance activities;
- Provision of public health laboratory services;
- Training and education of public health professionals; and
- Leadership, policy development, and administration activities.

2. The Secretary would develop and implement a formula, which incorporates measures of population, health status of the population, and financial resources, to distribute funds to the states. Tribal organizations could also receive a portion of the state grant directly from the Centers for Disease Control and Prevention (CDC). Although the Secretary would implement the formula, the Congress would have the opportunity to combine these solutions through the use of the State's block grant. The Congress would have the opportunity to change the formula if it is determined that the state is not making a good faith effort to address its leading public health problems, the Secretary could reduce the grant award.

3. Through its application, each state would show that it is using its funds to address public health problems unique to its population and accountable to the Secretary. Under this provision, each state would apply to receive the block grant. In its application, it would show, using public health indicators, that its leading public health problems are. This needs assessment would be conducted with wide community-based input. The public health indicators would be written on the Secretary's goals. If it is determined that the state is not making a good faith effort to address its leading public health problems, the Secretary could reduce the grant award.

4. The Core Functions of Public Health Block Grant Program would be authorized at $11 billion in 1997. The funds for the block grant are those which otherwise would be appropriated for the current twelve CDC grant programs. These are:

- Preventive health and health services block grant prevention and control of sexually transmitted disease;
- Infertility and sexually transmitted diseases immunization grant program;
- Preventive services programs regarding tuberculosis cancer registries;
- Preventive health services for diabetes;
- Preventive health services programs for tobacco use prevention;
- Preventive health services programs for disabilities prevention;
- Lead poisoning prevention;
- Breast and cervical cancer detection; and
- Preventive health and health services programs for human immunodeficiency virus.

5. Each state would be required to maintain its current funding for core functions of public health. To avoid an unfunded mandate, states could reduce the amount they spend on core functions, but they would face a dollar for dollar reduction in the amount they receive from the federal government.

CENTERS FOR DISEASE CONTROL AND PREVENTION ACTIVITIES

1. The CDC would report to the Congress on the benefits of its activities by July of 1996. Such a report would foster a review of the CDC's programs created by this legislation. The report would also include legislative recommendations.

2. An initiative to address priority public health issues through regional and national significance is authorized at $372 million for fiscal year 1997. Through this authority, the CDC could provide technical assistance, conduct applied research, and demonstration projects to address pressing public health needs of regional and national significance. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the CDC would work with states to incorporate these solutions through the use of the State's block grant. The authority is extended from the consolidation of the 28 different research and development funding streams at the CDC.

3. Authorized the Public Health Service to continue developing a uniform core public health functions reporting system which would measure outcomes attributable to the performance of core public health functions. This system would be used in the state application for the block grant. It would also be used to hold states accountable for their use of the block grant. The indicators would be tied to the goals of Healthy People 2000.

By Mrs. KASSEBAUM:

S. 473. A bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes; to the Committee on Labor and Human Resources.

THE JOB TRAINING CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, today I am reintroducing legislation designed to revamp our current Federal job training programs. From the viewpoint of both the taxpayer and the trainee, there can be little doubt that a comprehensive overhaul is long overdue.

Many Americans spoke clearly in the recent elections and said that they do not believe that the Federal Government is spending their money wisely. One of the most glaring examples of wasteful Government spending are Federal job training programs. According to the General Accounting Office, the Federal Government currently oversees 154 separate job training programs, administered by 14 different agencies, at a total cost to the taxpayers of almost $25 billion a year. These programs are run by duplication, waste, and conflicting regulations that too often leave program trainees no better off than when they started.

We simply cannot keep pumping Federal dollars into this confusing maze of programs. People across the country are fed up with spending money on Government programs that make promises and then do not deliver. With a few notable exceptions, the evidence on job training failures far exceeds the successes. Last year the GAO released a report indicating that fewer than half of the 62 job training programs selected for study even bothered to check to see if participants obtained jobs after training. During the past decade, only seven of those programs were evaluated to find out whether trainees would have achieved the same outcomes without Federal assistance.

There is general acknowledgement in Congress that we must act now to reform job training programs. The administration has also spoken to this need, as have many of my colleagues.

Last year I introduced bipartisan legislation designed to overhaul completely job training programs by essentially wiping the slate clean and starting over. The bill I am reintroducing today incorporates one of the two basic pieces of that original bill. The Job Training Consolidation Act of 1995 would grant broad waivers immediately to allow States and localities maximum flexibility to address the largest Federal job training programs at the local level.

This would have the immediate effect of allowing States and localities the opportunity to combine resources and tailor programs to meet their needs. For example, resources could be combined to address high priority needs of unemployed persons in a State or local community. In addition, where there is overlap, some programs could be eliminated to increase funding in other...
areas and improve efficiencies in the delivery of services.

What I am not proposing, which was the second piece of last year's bill, is to create a national commission to study and make recommendations to Congress on consolidating all existing programs. I no longer believe that it is necessary for Congress to wait another 2 years before taking decisive action to reform these programs.

Instead, the Senate Committee on Labor and Human Resources will hold hearings on January 10, 11, and 12 on the need for overhauling Federal job training programs. The hearings will outline the current state of the programs, provide state, local, and private sector perspectives on job training, and elicit the opinions of a variety of experts on how to reform our scattered array of training programs into a system that will serve all individuals more effectively.

As a result, I believe we will have the information necessary to make sendible determinations about the elimination or consolidation of specific programs. I intend to build upon this legislation in the next few months by introducing a comprehensive proposal to replace existing programs with a new employment and training strategy.

However, I believe it is first necessary for the Committee to conduct a thorough review of existing programs, before a final proposal is made.

The goal is a single, coherent approach to employment and training—to assist all job-seekers in entering the workforce, gaining basic skills, or retraining for new jobs. We do not have that kind of a system today and our workers and our economy both pay the price. We need to start over, think boldly, and create a system that works for everyone.

Mr. President, I ask unanimous consent that the text of the bill appear in the Record, as follows:

S. 143

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 "Job Training Consolidation Act of 1995.

(b) Table of Contents.—The table of contents is as follows:

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

TITe 1—USE OF FEDERAL FUNDS FOR STATE EMPLOYMENT TRAINING ACTIVITIES

Sec. 101. Formula assistance.
Sec. 102. Discretionary assistance.
Sec. 103. Trade adjustment assistance services.
Sec. 104. Employment training activities.
Sec. 105. Reports.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the General Accounting Office—

(A) there are currently 154 Federal employment training programs;

(B) these programs cost nearly $25,000,000,000 annually and are administered by 14 different Federal agencies;

(2) they target individual populations such as economically disadvantaged persons, dislocated workers, youth, and persons with disabilities;

(3) many of these programs provide similar services, such as counseling, assessment, and literacy skills enhancement, resulting in overlapping services, wasted funds, and confusion on the part of the program providers and individuals seeking assistance;

(4) the Federal agencies administering these programs fail to collect enough performance data to know whether the programs are working effectively;

(5) the additional cost of administering overlapping employment training programs at the Federal, State, and local levels diverts scarce resources that could be better used to assist all persons in entering the workforce, gaining basic skills, or retraining for new jobs;

(6) the conflicting eligibility requirements, and annual budgeting or operating cycles, of employment training programs create barriers to coordination of the programs that may restrict access to services and result in inefficient use of resources;

(7) despite more than 30 years of federally funded employment training programs, the Federal Government has no single, coherent policy guiding its employment training efforts;

(8) the Federal Government has failed to adequately maximize the effectiveness of the substantial public and private sector resources of the United States for training and work-related education;

(9) the Federal Government lacks a national labor market information system, which is needed to provide current data on jobs and skills in demand in different regions of the country.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) COVERED ACT.—The term "covered Act" means a Federal Act described in paragraph (3).

(2) COVERED ACTIVITY.—The term "covered activity" means an activity authorized to be carried out under a covered provision.

(3) COVERED PROVISION.—The term "covered provision" means a provision of—

(A) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 7901 et seq.);

(C) title I of the Adult Education Act (20 U.S.C. 6801 et seq.);

(D) title IV of the Social Security Act (42 U.S.C. 6061 et seq.);

(E) section 229 of the Rehabilitation Act of 1973 (29 U.S.C. 725 et seq.);

(F) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(G) title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(H) section 6(b)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015d)(4);

(I) the Refugee Education Assistance Act of 1980 (22 U.S.C. 1552 note);

(J) section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note);

(K) title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.);

(L) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.); and

(M) the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

TITe 1—USE OF FEDERAL FUNDS FOR STATE EMPLOYMENT TRAINING ACTIVITIES

SEC. 101. FORMULA ASSISTANCE.

(a) USE OF FUNDS.—Notwithstanding any other provision of Federal law, a State that receives Federal formula assistance for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year. Notwithstanding any other provision of Federal law, a local entity that receives local formula assistance for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State may use such formula assistance, and a local entity may use such local formula assistance, for a covered activity—

(I) shall allocate such assistance in accordance with allocation requirements that are specified in the covered Acts and that relate to the covered activity, including provisions relating to minimum or maximum allocations; and

(II) if the State or local entity uses such assistance to carry out the covered activity, shall exercise the enforcement and oversight authorities that are specified in the covered Acts and that relate to the covered activity; and

(II) if the State or local entity does not use such assistance to carry out the covered activity otherwise, shall exercise such authorities solely for the purpose of ensuring that the assistance is used to carry out activities as described in section 104, and in accordance with the applicable requirements of the covered Acts.

(b) ADMINISTRATIVE EXPENSE LIMITS.—Each State that receives State formula assistance, and each local entity that receives local formula assistance, for a covered activity—

(I) shall comply with any limits on administrative expenses that are specified in the covered Acts and that relate to the covered activity; and

(ii) for any fiscal year, may not use a greater percentage of the State formula assistance or local formula assistance to pay for administrative expenses related to activities carried out under section 104 than the State or entity used to pay for such administrative expenses relating to the covered activity for fiscal year 1995.

(c) CONDITIONAL BENEFITS.—Any State that receives State formula assistance to carry out a covered activity described in a covered provision specified in subparagraph (D) or (H) of section 33 and that is eligible to participate in the covered activity to carry out activities as described in section 104 shall carry out an activity that is appropriate for persons who would otherwise be eligible to participate in the covered activity. Any person in the State who would otherwise be required to participate in the covered activity in order to obtain Federal assistance under a covered Act shall be eligible to receive the assistance by participating in such appropriate activity.
(D) Availability of appropriations.—Nothing in this section shall affect the period for which any appropriation under a covered Act remains available.

(c) Definitions.—As used in this section:

(1) Prior assistance.—Notwithstanding any other provision of Federal law, a State or local entity that received, prior to the date of enactment of this Act, discretionary assistance for a covered activity for a fiscal year may use such discretionary assistance for activities as described in section 104 for the fiscal year.

(2) Future assistance.—Notwithstanding any other provision of Federal law, a State or local entity that is eligible to apply for discretionary assistance for a covered activity for a fiscal year may apply, as described in subsection (a), for discretionary assistance to carry out activities as described in section 104 for the fiscal year.

(3) Use of funds.—In general.—Except as otherwise provided in this subsection, a State or local entity that receives discretionary assistance prior to the date of enactment of this Act or on approval of an application submitted under subsection (c) may use the discretionary assistance to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(4) Remaining program requirements.—A State or local entity that uses discretionary assistance to carry out such activities shall use the assistance in accordance with the requirements of subparagraphs (A), (B), and (D) of section 101(b), which shall apply to such assistance in the same manner and to the same extent as the requirements apply to State formula assistance or local formula assistance, as appropriate, used under section 103.

(5) Additional information in application.—A State or local entity seeking to use discretionary assistance described in subsection (a) shall include in the application (under the covered provision involved) of the State or local entity for the assistance (in lieu of any information otherwise required to be submitted):

(a) a description of the funds the State or local entity proposes to use to carry out activities as described in section 104;
(b) a description of the activities to be carried out with such funds;
(c) a description of the specific outcomes expected of participants in the activities; and
(d) such other information as the head of the agency with responsibility for evaluating the application may require, that contains instructions.

(6) E valuation of application.—In evaluating an application described in subsection (c), the agency with responsibility for evaluating the application shall evaluate the application by determining the likelihood that the State or local entity submitting the application will carry out activities as described in section 104. In evaluating applications for discretionary assistance, the agency shall give preference to applications proposing covered activities over applications proposing activities as described in section 104.

(7) Conditioned benefits.—Any State that receives discretionary assistance as described in subsection (a)(1) to a worker, and that uses the assistance to carry out activities as described in section 104, shall carry out eligible alternative activities that are appropriate for the worker. If the worker would otherwise be required to receive such services in order to obtain Federal funds under other programs, including title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), the worker shall be eligible to receive the funds by participating in such eligible alternative activities.

(8) Additional information in application.—A State seeking to use Federal assistance for a covered activity for a fiscal year under a covered Act shall notify the State in which the worker is employed. In evaluating an application for Federal assistance that would otherwise have been expensed to provide services described in subsection (a)(1) to a worker, and that uses the assistance to carry out activities as described in section 104, the agency shall carry out eligible alternative activities that are appropriate for the worker. If the worker would otherwise be required to receive such services in order to obtain Federal funds under other programs, including title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), the worker shall be eligible to receive the funds by participating in such eligible alternative activities.

(9) Discretionary assistance as described in subsection (a)(1) to a worker, and that uses the assistance to carry out activities as described in section 104, shall carry out eligible alternative activities that are appropriate for the worker. If the worker would otherwise be required to receive such services in order to obtain Federal funds under other programs, including title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), the worker shall be eligible to receive the funds by participating in such eligible alternative activities.
will be able to carry out activities as described in section 104. In evaluating applications for such Federal assistance, the Secretary of Labor shall not give preference to applications proposing covered activities over any other application proposing activities as described in section 104.

SEC. 104. EMPLOYMENT TRAINING ACTIVITIES. A State or local entity that receives State formula assistance or local formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), may—

(1) use the assistance to carry out activities to develop a comprehensive statewide employment training system that—
   (A) is primarily designed and implemented by communities to serve local labor markets in the State involved;
   (B) requires the participation and involvement of private sector employers in all phases of the planning, development, and implementation of the system, including—
      (i) determining the skills to be developed by each employment training program carried out through the system; and
      (ii) designing the training to be provided by each such program;
   (C) assures that State and local training efforts are linked to available employment opportunities;
   (D) includes standards for determining the effectiveness of such programs; and
   (E) is an integrated system that assures that individuals seeking employment in the State will receive information about all available employment training services provided in the State, regardless of where the individuals initially enter the system; or
   (2) use the assistance that would otherwise have been used to carry out 2 or more covered activities—
      (A) to address the high priority needs of unemployed persons in the State or community involved for employment training services; or
      (B) to improve efficiencies in the delivery of the covered activities; or
   (C) in the case of overlapping or duplicative activities—
      (i) by eliminating the covered activities and funding the combined activities; or
      (ii) by eliminating one of the covered activities and increasing the funding to the remaining covered activity.

SEC. 105. REPORTS. (a) STATE REPORTS.—A State that receives State formula assistance or local formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), shall annually prepare a report containing—

   (A) information on the amount and origin of such assistance;
   (B) information on the activities carried out with such assistance;
   (C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities; and
   (D) such other information as the State that allocates the assistance may require.

(b) LOCAL ENTITY REPORTS.—

   (1) PREPARATION.—A local entity that receives local formula assistance as described in section 101(a), or that receives discretionary assistance as described in section 102(b), and uses the assistance to carry out activities as described in section 104 shall annually prepare a report containing—

      (A) information on the amount and origin of such assistance;
      (B) information on the activities carried out with such assistance;
      (C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities; and
      (D) such other information as the State that allocates the assistance may require.

   (2) SUBMISSION.—The local entity shall submit the report described in paragraph (1) to the State not later than 30 days after the end of each fiscal year.

TITLE II—CONSOLIDATION OF EMPLOYMENT TRAINING PROGRAMS SEC. 201. REPEALS OF EMPLOYMENT TRAINING PROGRAMS.

(a) IN GENERAL.—The following provisions are repealed:

   (1) The Job Training Partnership Act (29 U.S.C. 2991 et seq.).
   (3) Part B of title III of the Adult Education Act (20 U.S.C. 1311 et seq.).
   (4) Part F of title IV of the Social Security Act (29 U.S.C. 2781 et seq.).
   (7) Title I of the Rehabilitation Act of 1973 (29 U.S.C. 771 et seq.).
   (8) Section 235 of the Social Security Act (42 U.S.C. 681 et seq.).
   (11) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.).
   (12) Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(b) TITLES.—The following are redesignated:

   (1) TITLE I—PREPARATION.—Part I of title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 2991 et seq.).
   (2) TITLE II—EMPLOYMENT TRAINING ACTIVITIES.—Part II of title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 2991 et seq.).

(c) EFFECTIVE DATE.—The repeal made by this section (a) shall take effect 24 months after the date of enactment of this Act.

(d) ADDITIONAL REPEALS.—(1) Without respect to the date of repeal, the provisions of subsections (b) and (c) of section 102(a) of the Trade Act of 1965 (22 U.S.C. 2502(a)(2)), and sections 105(e) and 107(d) of the Trade Act of 1974 (22 U.S.C. 2505(e) and 2507(d)) are repealed.

Mr. HATCH. Mr. President, I rise today to introduce what some might take as a minor bill, but one that is nonetheless the right thing to do for Department of Justice employees and Federal public defenders who serve their government diligently. Most of my colleagues, I believe, are familiar with this legislation, which we have been working on for several years. The same, or a similar bill, has in recent years twice passed the Senate and once added to a crime bill conference report. Nonetheless, for reasons unrelated to this bill, it has never been signed into law. I sincerely hope that by moving this bill separately this year we can get it done.

This legislation provides that current or former attorneys or agents employed by the Department of Justice or by a Federal public defender subjected to criminal or disciplinary investigations arising out of their employment duties shall be entitled to reasonable attorney’s fees if such investigations do not result in adverse action.

In reality, this bill is simply a matter of fundamental fairness. The Independent Counsel Reauthorization Act has for some time provided for full reimbursement of counsel’s fees incurred by high level Federal officials subject to investigation for possible violations of Federal criminal law.

Providing legal fees to high-ranking government officials subject to investigation for violation of criminal law, but not to working level employees such as Assistant U.S. Attorneys is simply unfair. High ranking officials obviously receive larger government salaries than their working level colleagues, and not infrequently have opportunities to earn lucrative salaries once they leave. Moreover, they are often less vulnerable to the chilling effect misconduct or criminal investigations can have on employees on the front line of prosecution.

The reimbursement provisions of the Independent Counsel Act demonstrate that the public interest in assisting government officials with the staggering cost and devastating impact of investigations can outweigh any real or perceived conflict of interest, which I understand is the principal rationale for not providing such assistance to lower level employees.

The Independent Counsel Act, however, correctly provides reimbursement for attorney’s fees only if the person under investigation is vindicated. By limiting government assistance only to such circumstances—which may my bill does as well—the public interest is clearly served. Any conflict attributable to the government arguing with the government is rendered void. By providing reimbursement only for a successful defense, any incentive to defending private counsel to go easy with the Government because it will reimburse his or her fees is removed. Also, by providing the means for an adequate defense for its employees, the U.S. Government ensures that frivolous or vindictive investigations are terminated once and for all. At the same time, there is no incentive under such an arrangement for the Government to prosecute less zealously; indeed, a successful prosecution saves costs since there then would be no obligation to pay legal fees.
If no reimbursement is available, however, the possibility of serious conflicts is great. If an Assistant U.S. Attorney must retain private defense counsel, it is likely that the defense counsel would have to provide the U.S. Attorney with a fee discount or pro bono representation. This situation obviously at least the appearance of, if not a real conflict of interest in the future.

The limited legislation I am introducing, which provides for reimbursement of private attorneys fees to certain federal public defenders under specified circumstances, can be fully justified. Covered employees, because of their duties, are far more often subject to allegations of misconduct, usually by defendants and less often by courts. In either event, the reality is that these employees—both lawyers and agents—are in a position of constant adversity. In order to prevent the need for self-defense from becoming a disincentive to government service, I force Assistant U.S. Attorneys to roam the defense bar looking for handouts in the form of free, legal service—a disagreeable situation to say the least—some legislative relief is appropriate. I believe the legislation I am introducing today provides a limited and rational solution to this problem, and I hope the Senate will move swiftly to pass it.

By Mr. GRAMM (for himself, Mr. LOTT, Mr. BURNS, Ms. HUTCHISON, Mr. CRAIG THOMAS, and Mr. INHOFE):

S. 145. A bill to provide appropriate protection for the Constitutional guarantee of private property rights, and for other purposes; to the Committee on Governmental Affairs.

The private property rights restoration

- Mr. GRAMM. Mr. President, we see no reason why the takings clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or the Fourth Amendment, should be legislatively restricted to the status of a poor relation. With these words in the recent landmark Supreme Court decision Dolan versus City of Tigard, Chief Justice Rehnquist correctly points out the evisceration of one of the most fundamental rights protected by our Constitution. Sadly, with all the talk about rights in America today, the fundamental freedom to acquire, use, and dispose of private property has become a poor relation. In fact, it has very nearly been drummed out of the family because of the Federal Government's relentless assault on private property.

The Founding Fathers were keenly aware of the need to protect private property rights, so much so that they provided in the Bill of Rights that private property—shall not—be taken for public use without just compensation. Indeed, the courts have been very clear that if the Government builds a highway across your property, then the 5th amendment's just compensation provision applies. However, one form of taking which has become more common than outright condemnation is the regulatory taking. This occurs when the Government imposes such stringent controls on the use of private property that its value is eroded or destroyed.

Currently, farmers, small businesses, and homeowners are in the path of an avalanche of new regulations and restrictions affecting their property. During President Clinton's first year in office, the Federal Register, which is the daily depository of all proposed and final Federal regulations, totaled 884 pages. That is nearly double the height of Jimmy Carter's record level. Moreover, the Unified Agenda of Federal Regulations reveals an enormous increase in regulatory activity, with a 22 percent growth since 1992 in the number of regulations under consideration or recently completed by the 60 Federal departments and agencies within the Clinton bureaucracy.

Two examples of Federal regulatory takings involve wetlands and endangered species. In Texas, the U.S. Fish and Wildlife Service (USFWS) has listed 65 species as threatened or endangered. Nationwide, 853 species are already listed as endangered, and approximately 3,900 are candidates for inclusion on the list. The mere presence of these endangered species on a parcel of land has profound ramifications for small, individual landowners whose property holdings are often their most significant source of income. In the Woods of East Texas, if a red-cockaded woodpecker landed in your tree, you could suddenly be threatened with a government taking that barred you from cutting your own timber. Without the income generated by such economic activity, how are those whose jobs are put at risk expected to provide for themselves and their families?

All over the country under wetlands provisions, entire counties or significant portions of coastal land in States such as Texas and Maryland have found that their ability to use their property has been restricted dramatically because a Government bureaucracy redefined what would qualify as a wetland. The destructive impact of these regulatory actions on jobs, the economy, family well-being, and individual freedom has been enormous.

To help revive this important freedom, I have reintroduced The Private Property Rights Restoration Act, which will restore the Constitutional mandate that just compensation be paid when government action reduces private property value. This bill will safeguard the rights of individuals whose land is taken by Government regulations or policies which reduce or destroy the value of the property. The legislative solution, of course, is a legal remedy that would begin just compensation when the value of the property is reduced.

To bar an award of damages under this Act, the United States shall have the burden of proving that the value of the property has not been reduced or destroyed.

SEC. 2. PRIVATE PROPERTY RIGHTS RESTORATION.

(a) Cause of action.—(1) The owner of any real property shall have a cause of action against the United States if—

(A) the application of a statute, regulation, rule, guideline, or policy of the United States restricts, limits, or otherwise takes a right to real property that would otherwise exist in the absence of such application; and

(B) such application described under subparagraph (A) would result in a discrete and nonnegligible reduction in the fair market value of the affected portion of real property of the lesser of—

(A) $10,000 or more; or

(B) $10,000 or more.

(b) Jurisdiction.—An action under this Act shall be filed in the United States Court of Federal Claims which shall have exclusive jurisdiction.

(c) Recovery.—In any action filed under this Act, the owner may elect to recover—

(1) a sum equal to the diminution in the fair market value of the portion of the property affected by the application of a statute, regulation, rule, guideline, or policy described under subsection (a)(1)(A) and retain title; or

(2) the fair market value of the affected portion of the regulated property prior to the Government action and relinquish title to the portion of property regulated.

(d) Public Nuisance Exception.—(1) No compensation shall be required by virtue of this Act if the owner's use or proposed use of the property amounts to a public nuisance as commonly understood and defined by background principles of nuisance and property law as understood under the law of the State within which the property is situated.

This Act may be cited as the "Private Property Rights Restoration Act."
of proof to establish that the use or proposed use of the property is a public nuisance as defined under paragraph (1) of this subsection.

SEC. 3. APPLICATION; STATUTE OF LIMITATIONS.

(a) Application.—This Act shall apply to the application of any statute, regulation, rule, policy, or procedure to real property if such application occurred or occurs on or after January 1, 1994.

(b) Statute of Limitations.—The statute of limitations for actions brought under this Act shall be six years from the application of any statute, regulation, rule, policy, or of the United States to any affected parcel of property.

SEC. 4. AWARD OF COSTS; LITIGATION COSTS.

(a) In General.—The court, in issuing any final order in any action brought under this Act, shall award costs of litigation (including reasonable attorney and expert witnesses) to any prevailing plaintiff.

(b) Payment.—All awards or judgments for plaintiff, including recovery for damages and costs of taking, shall be paid out of funds of the agency or agencies responsible for issuing the statute, regulation, rule, guideline, or policy affecting the reduction in the fair market value of the affected portion of property. Payments shall not be made from a judgment fund.

SEC. 5. CONSTITUTIONAL OR STATUTORY RIGHTS NOT RESTRICTED.

Nothing in this Act shall restrict any remedy or any right which any person (or class of persons) may have under any provision of the United States Constitution or any other law.

PRIVATE PROPERTY RIGHTS RESTORATION ACT

SECTION 1. SHORT TITLE.—“PRIVATE PROPERTY RIGHTS RESTORATION ACT.”

SEC. 2. PRIVATE PROPERTY RIGHTS RESTORATION ON.

(a) CAUSE OF ACTION.—(1) The owner of any real property (land) may sue the U.S. government if

(A) any governmental action identified in the Act is taken in relation to their property; or

(B) that taking significantly reduces the fair market value of the affected portion of property.

(2) A property owner may sue the U.S. government if

(a) any governmental action identified in the Act is taken in relation to their property; or

(b) that taking significantly reduces the fair market value of the affected portion of property.

(b) JURISDICTION.—The United States Court of Federal Claims is established as the court of jurisdiction for claims brought forth under this Act.

(c) RECOVERY.—Property owners may choose among two options to seek reimbursement for government actions which result in takings.

(d) PUBLIC NUISANCE EXCEPTION.—Ensures that no compensation is awarded if the use to which the property owner puts the property is hazardous to the public.

SEC. 3. APPLICATION; STATUTE OF LIMITATIONS.

(a) Application.—The bill applies to real property affected by governmental actions which occur on or after January 1, 1994.

(b) Statute of Limitations.—The statute of limitations for actions brought forth under this legislation is limited to 6 years after application of the regulatory action to the affected property.

SEC. 4. AWARD OF COSTS; LITIGATION COSTS.

(a) Includes litigation costs in court award.

(b) Requires payment for court awards from agency budgets of the agency responsible for the government action, rather than a judgment fund.

SEC. 5. CONSTITUTIONAL OR STATUTORY RIGHTS NOT RESTRICTED.

Ensures that the bill does not preclude any other remedy property owners may seek.

By Mr. GRAMM:

S. 146. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

THE AMERICAS FREE TRADE ACT

Mr. GRAMM. Mr. President, on February 4, 1993, I introduced legislation to authorize the negotiation of free agreements between the United States and the countries in North and South America that would be toward the realization of my hopes for a free trade area stretching from the Elizabeth Islands of Canada to Tierra del Fuego in South America. The subsequent approval of the North American Free Trade Agreement (NAFTA), is the most significant accomplishment to date on the road toward the achievement of free trade throughout our hemisphere.

On January 25, 1994, I introduced the American Free Trade Act. This legislation was introduced the preceding year, with the addition of special provisions regarding free trade with a post-Castro, post-communist Cuba. Those provisions defined the standards by which we would be able to identify the return of freedom to Cuba and would give priority to the negotiation of a free trade agreement with a free Cuba.

The Index of Economic Freedom, recently published by the Heritage Foundation, listed Cuba, together with North Korea, as the most repressive nation on the earth with regard to economic rights and freedoms. Cuba and North Korea remain the last bastions of repressive regimes. While such a regime remains in power in North Korea, as the most repressive nation on the earth with regard to economic rights and freedoms. Cuba and North Korea remain the last bastions of repressive regimes. While such a regime remains in power on the earth, we must hold Cuba to the standards of economic freedom that made us the greatest, most prosperous nation on the planet.

The bill contains five standards for measuring the return of freedom in Cuba. These standards are:

1. The establishment of constitutionally-protected democratic government with leaders freely and fairly elected;
2. The restoration, effective protection, and broad exercise of private property rights;
3. The achievement of a convertible currency;
4. The release of political prisoners; and
5. The effective guarantee of free speech and freedom of the press.

These, of course, are minimum conditions upon which free trade relations can be established and which free trade can strengthen. In fact, free trade will serve to expand the economic and political freedoms of Cuba.

Mr. President, the bill sets forth an additional requirement that necessarily must be met for our Nation to enter into a free trade agreement with Cuba, and that is that the claims of U.S. citizens for compensation for expropriated property are appropriately addressed.

This last December, the leaders of all of the nations of the Western Hemisphere, except for Fidel Castro, met in Miami and agreed to the goal of achieving free trade throughout the Americas early in the next century. I have long supported that goal. I hope that this bill that I am reintroducing today can be speedily enacted to give the President the authority to begin negotiations right away.

Mr. President, the time is not at all premature. Several countries have already expressed a desire to enter into a free trade arrangement with the United States. Among those are Chile, Panama, Argentina, and others. Several of these and other countries in the hemisphere have entered into, or are negotiating, free trade arrangements among themselves. While NAFTA is the largest free trade area in the hemisphere, Brazil, Argentina, Uruguay, and Paraguay, are scheduled this year to initiate the second largest free trade area, called Mercosur, a free trade area with nearly $650 billion in combined gross domestic product. Four other trade arrangements are or soon will be in place in the Americas and the Caribbean. These trade arrangements are the building blocks of an eventual free trade area embracing all of the Americas. The Americas Free Trade Act would encourage the President to conduct negotiations with such groups of nations, in order to build upon the progress that they are achieving in lowering the barriers to trade among themselves.

Mr. President, the last 15 years have witnessed victories for freedom in the governments and economies of the Americas. Their rejection of authoritarianism has accelerated, and the United States has been the model for this development. After almost two centuries of forsaking the example of freedom that made us the greatest, most prosperous nation on the planet, the nations of this hemisphere are more willing than ever to emulate our formula for success. Now is the time for us to encourage and embrace our neighbors as we lay the foundation for a new century of prosperity and opportunity for all of the people of the New World.

Mr. President, I ask that the summary and text of the bill be included in the RECORD.

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

S. 146

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 "American Free Trade Act."
Facts on the parent and child exemptions:
In 1960, exemptions alone shielded 65 percent of the income of an average family of four from any Federal income taxes.

By the end of the 1970's, the protection of family income provided by the exemption had dropped to just 16 percent of the income of an average family.

In the 1980's, Republicans stopped the erosion of the exemption by indexing it for inflation, and then restored it to the levels that existed in 1950.

The increase in the dependent exemption would further protect the family budget from Federal taxation by increasing the exemption to 33 percent of the average income of an average family of four.

This change, the amount of family income protected for its own use would rise to $15,000 or about 33 percent of average family income. This is an important step toward allowing families to spend their own money again, the amount of average family income shielded from the tax collector will still be only about half of the level which existed in 1950.

Double the dependent exemption for all children from $2,500 to $5,000, thus allowing families to spend more of their own money on their own children.

Cut the discretionary budgets of the Departments of Education, Energy, Labor, Health and Human Services, Housing and Urban Development, and Transportation (non-trust fund) by 1% over 5 years.

**Sec. 3. Free Trade Area for the Western Hemisphere.**

(a) In General.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) Reciprocal Basis.—An agreement entered into under subsection (a) shall be reciprocal.

(c) Bilateral or Multilateral Basis.—Agreements entered into under subsection (a) may be on a bilateral basis or on a multilateral basis with at least one other country.

**Sec. 4. Free Trade with Free Cuba.**

(a) Restrictions Prior to Restoration of Freedom in Cuba.—The provisions of this Act shall not apply to Cuba unless the President certifies (1) that freedom has been restored in Cuba, and (2) that the claims of United States citizens for compensation for expropriated property have been appropriately addressed.

(b) Standards for the Restoration of Freedom in Cuba.—The President shall not make the certification that freedom has been restored in Cuba, as described in subsection (a), unless he determines that—

1. In a constitutionally guaranteed democratic government has been established in Cuba, with leaders chosen through free and fair elections;

2. The rights of individuals to private property have been protected and and are protected by law;

3. All political prisoners have been released in Cuba; and

4. The rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) Priority for Free Trade with Free Cuba.—An agreement entered into under subsection (a) shall be reciprocal.

(d) Prohibited Items.—An agreement entered into under subsection (a) shall not apply to Cuba unless the President certifies (1) that freedom has been restored in Cuba, and (2) that the claims of U.S. citizens for compensation for expropriated property have been appropriately addressed.

**Sec. 5. Permanent Application of Fast Track Procedures.**

The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply to implementing bills submitted with respect to trade agreements entered into pursuant to the provisions of this Act.
improve supervision of investment advisers. While not lacking for resources, given the SEC's budget over the last several years, the SEC has had difficulty targeting funding to this area of responsibility. The bill that I am introducing will take two important steps toward solving this problem.

First, the bill would highlight the importance of enforcing the Investment Advisers Act of 1940 by identifying specific amounts from the SEC's budget to be devoted to that purpose. The bill transfers $10 million for fiscal year 1996, and $12 million in 1997, recognizing that organizing and training for this purpose is unlikely to be completed in the first year. The SEC could devote more of its budget to this enforcement effort if the Commission chose to do so, but these amounts will at least ensure increased priority.

Mr. President, I proposed to direct those efforts where the problems are likely to occur. Frankly, the fraud is going to be where the money is, and that is where we should direct the SEC's attention. For example, as few as 5 percent of registered investment advisers manage more than $500 million each of client assets, and yet this group has 70 percent of all assets under management. The SEC should not have its attention diverted from these advisers by inspection of advisers managing little or none of their clients' assets. In fact, Mr. President, about half of all investment advisers do not manage any client assets at all.

This bill would exempt from SEC registration all investment advisers managing less than $5 million in assets, with one important condition. That condition is that adviser is registered with his or her State securities regulator, who would then have responsibility for supervision. Should a State not wish to take on responsibility for supervision of such investment advisers, then the State may not register them and the investment adviser would continue to require to register with the SEC and be subject to SEC supervision.

If the SEC determines, however, that there is a need, and that the SEC has sufficient resources, the Commission may limit this exemption to investment advisers managing more than $1 million in assets. The SEC would in such event supervise investment advisers who manage 99 percent of all assets under management. This would not only meet the SEC's efforts less sharply, but it would still reduce the SEC's inspection load by as much as two-thirds.

The legislation would preserve full authority for the SEC to investigate aggressively any investment adviser where allegations of fraud are raised. Moreover, the SEC could disqualify from registration as an investment adviser any individual who in the previous 10 years had been convicted of a felony.

This bill avoids the approach of earlier proposals, which would have imposed a new tax on all investment advisers, and thereby on all of their clients. In my view, such a tax is unacceptable, especially while existing SEC fees impose a tax on investment, raising enough revenues to fund the SEC two or three times over. Moreover, the most harmful stage of the economic cycle on which to levy a tax is investment. Every investment dollar lost to pay for government is not just a loss of one dollar, but it is the loss of the many more dollars that this investment would have generated in economic activity.

Mr. President, allow me to emphasize again that the SEC has not been starved for resources. The budget of the SEC has tripled since 1986, up by 60 percent since 1990. The challenge to the SEC has not been obtaining resources, but rather assigning those resources to what the SEC has testified is a priority area of concern. This legislation will aid the SEC in that effort.

Mr. President, I ask that a summary and the text of the bill by included in the Record.

S. 148

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 "Investment Advisers Integrity Act.""
Act adopts President Bush's proposal to limit the aggregate growth of all entitlements other than Social Security in the growth rate formula of Social Security for the period FY 1996 to FY 2002: the aggregate growth of all entitlements other than Social Security is linked to the growth rate formula of Social Security, which is the consumer price index and the growth in eligible population.

The Balanced Budget Implementation Act provides flexibility in the growth rate of entitlement programs: An individual entitlement program can grow faster than the overall average if the growth in all entitlements (other than Social Security) does not exceed the entitlement cap.

From FY 1996 to FY 2002, the aggregate spending cap on entitlements will be enforced by an entitlement sequester: The Balanced Budget Implementation Act provides that if aggregate spending growth in entitlements exceeds the total growth in consumer prices and eligible population, an across-the-board sequester to eliminate excess spending growth will occur on all entitlements other than Social Security. A 3/5ths vote of the whole membership of each House is required to waive this sequester.

The new maximum deficit amounts will be enforced by the existing GR sequester mechanism to balance the budget by FY 2002 and annually thereafter. The deficit targets are:

- FY 1996, $145 billion
- FY 1997, $120 billion
- FY 1998, $97 billion
- FY 1999, $72 billion
- FY 2000, $48 billion
- FY 2001, $24 billion
- FY 2002, $0 billion

The new maximum deficit amounts will be enforced by the existing GR deficit sequester. After reaching a balanced budget, the GR sequester mechanism will become permanent to ensure the budget stays in balance.

The Balanced Budget Implementation Act requires the strengthening of the existing GR points of order. A point of order will lie against all actions that (1) increase the deficit or (2) increase the limit on national debt held by the public beyond the deficit levels required by the Balanced Budget and Impoundment Control Act of 1974. An appeal of the point of order will lie against any effort to increase the limit on national debt.

This sequester would be in effect until Congress passes legislation which brings the entitlement program back within the cap, and the President signs it.

At the beginning of FY 1997, all unearned entitlements will expire for the fiscal year that begins in that session. The second session of that Congress, the spending authority for the remaining discretionary programs will expire for the fiscal year that begins in that session. This sequester will be enforced by the points of order contained in Section (B) above.

**Title 3: Limit the Growth of Entitlements to the Growth Rate of Social Security:**

(A) The Balanced Budget Implementation Act adopts President Bush's proposal to limit the aggregate growth of all entitlements other than Social Security to the growth rate formula of Social Security for the period FY 1996 to FY 2002: the aggregate growth of all entitlements other than Social Security is linked to the growth rate formula of Social Security, which is the consumer price index and the growth in eligible population.

(B) The Balanced Budget Implementation Act provides flexibility in the growth rate of entitlement programs: An individual entitlement program can grow faster than the overall average if the growth in all entitlements (other than Social Security) does not exceed the entitlement cap.

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

**Balanced Budget Implementation Act Outline**

(A) Joint Resolution on the Budget: To reauthorize cooperation and coordination between the President and Congress resulting from the Congressional Budget and Impoundment Control Act of 1974 which created the President's Executive and One Congress—the Balanced Budget Implementation Act converts the present concurrent resolution on the budget into a joint resolution on the budget which must be signed by the President, ensuring joint Congressional and Executive branch consensus and commitment to each annual budget.

**Title 2: Zero-Based Budgeting & Decennial Sunsetting**

(A) For FY 1996 and FY 1997, Congress must reauthorize all discretionary programs and all unearned entitlements: The Balanced Budget Implementation Act adopts President Carter's zero-based budgeting concept, mandating that before FY 1996 begins, the spending authority for all unearned entitlements, and the spending authority for the most expensive one-third of discretionary programs will expire. Entitlements earned by service in total or in part by assessments or contributions shall be deemed as earned, and their authorization shall not expire. Entitlements not unearned include Social Security, veterans benefits, retirement programs, Medicare and others. Before FY 1997, the spending authority of the remaining discretionary programs will expire.

Specifics: By the beginning of FY 1997, all unearned entitlements and discretionary programs will be subject to re-authorization. If a specific unearned entitlement or discretionary program is not re-authorized in a non-appropriations bill, it cannot be funded and will be terminated.

(B) Unauthorized programs cannot receive appropriations: The Balanced Budget Implementation Act creates a point of order in both Houses against any bill or provision that includes funds to a program for which no authorization exists.

Specifics: Such point of order can be waived only by the affirmative vote of 3/5ths of the whole membership of each House. An appeal of the ruling of the chair on such points of order also require a 3/5ths affirmative vote of the whole membership of each House.

A 3/5ths point of order shall lie against any authorization that is contained in an appropriation bill.

(C) All discretionary programs and unearned entitlements must be reauthorized every ten years: In the first session of the Congress which follows the decennial Census reapportionment, the spending authority for all unearned entitlements and the most expensive one-third of all discretionary programs will expire in total or in part by assessments or contributions. The Spending Authority for the Congressional Budget and Impoundment Control Act of 1974 will expire for the fiscal year that begins in that session. The second session of that Congress, the spending authority for the remaining discretionary programs will expire for the fiscal year that begins in that session. This sequester will be enforced by the points of order contained in Section (B) above.

**Title 3: Limit the Growth of Entitlements to the Growth Rate of Social Security:**

(A) The Balanced Budget Implementation Act adopts President Bush's proposal to limit the aggregate growth of all entitlements other than Social Security to the growth rate formula of Social Security for the period FY 1996 to FY 2002: the aggregate growth of all entitlements other than Social Security is linked to the growth rate formula of Social Security, which is the consumer price index and the growth in eligible population.

(B) The Balanced Budget Implementation Act provides flexibility in the growth rate of entitlement programs: An individual entitlement program can grow faster than the overall average if the growth in all entitlements (other than Social Security) does not exceed the entitlement cap.

(C) From FY 1996 to FY 2002, the aggregate spending cap on entitlements will be enforced by an entitlement sequester: The Balanced Budget Implementation Act provides that if aggregate spending growth in entitlements exceeds the total growth in consumer prices and eligible population, an across-the-board sequester to eliminate excess spending growth will occur on all entitlements other than Social Security. A 3/5ths vote of point of order lies against any effort to exclude any entitlement from this sequester. Such point of order can only be waived by a 3/5ths vote of the whole membership of each House.

By Mr. Dole (for himself, Mr. Hatch, Mr. Simon, Mr. Thurmond, Mr. Heflin, Mr. Craig, Ms. Moseley-Braun, Mr. Brown, Mr. Kohl, Mr. Simpson, Mr. Grassley, Mr. Specter, Mr. Kyl, Mr. Nickles, Mr. Murkowski, Mr. Bryan, Mrs. Hutchison, Mr. Exon, Mr. Shelby, Mr. Campbell, Mr. Smith, Mr. Cohen, Mr. Pressler, Mr. Greg, Mr. Gorton, Mr. Ashcroft, Mr. Burns, Mr. McConnell, Mr. Inhofe, Mr. Gramm, Mr. Lott, Mr. DeWine, Ms. Snowe, Mr. Thompson, Mr. Roth, Mr. Lugar, Mr. Bond, Mr. Craig Thomas, Mr. Coverdell, Mr. Santorum, Mr. Grams, and Mr. Mack.

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.
Mr. President, the deficit situation has improved since President Clinton took office, but only slightly. Even under the rosiest of scenarios which assume 10 straight years of steady growth with low inflation, the deficit is expected to fall for another year or two and then start moving right back up again.

Mr. President, on November 8, the American people sent a message to Washington. They want us to get federal spending under control.

Nine more “messengers,” fresh from the campaign trail, took the oath of office today. The American people and every Senator in this Congress, the 11 new Senators who were elected last November, understand that the time has come for a fundamental change in the way we do business in Washington.

It is time to give constitutional protection to the generations of Americans whose dreams of a better future are being crushed under a mountain of debt passed on by a spendthrift Congress for the past 35 years. It is time to give constitutional protection to future generations of Americans—our children and grandchildren—who are not yet eligible to vote and are inadequately represented in Congress today.

The American people want a smaller, less intrusive Government. Ronald Reagan tried to cut taxes, grow the economy, and force Congress to either cut spending or run up record deficits. He wagered that given that choice, Congress would do the right thing and cut spending. But, not even record deficits could curb Congress’ spending addiction.

There will be some who argue that voting for the balanced budget amendment is taking the easy way out. They are wrong. Adoption of the balanced budget amendment is only the first step. Once it is approved, Congress must begin to take action now that will enable us to balance the budget by the time the proposed amendment could go into effect.

The American people want the 104th Congress to make some tough choices. They understand that we cannot magically balance the budget overnight, but, they also expect to see progress, real progress.

We intend to deliver. Senator DOMENICI and Congressman KASICH are hard at work with other House and Senate Republicans developing a budget blueprint that will put the Federal budget on a path toward balance by 2002—without touching Social Security and without raising taxes.

Mr. President, I want to commend the distinguished chairman of the Judiciary Committee, Senator HATCH, the distinguished senior Senator from Illinois, Senator SIMON, the distinguished senior Senator from Idaho, Senator CRAIG, and others, for the work they have done to develop a balanced budget constitutional amendment that has strong bipartisan support.

I understand from Chairman HATCH that the Senate Judiciary Committee will hold a hearing on Senate Joint Resolution 1 tomorrow, and that he intends to work with the members of the committee to try to get this amendment approved for a full debate later this month. I look forward to that debate, and I am confident that with the help and support of the American people, the 104th Congress will be able to break the gridlock for real change that demonstrates that we got the message—loud and clear, change that can help restore confidence in our democratic system of Government, change that can help revive the American dream for future generations.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the Record.

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

S. J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring therein, that the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE—

SECTION 1. Total outlays for any fiscal year shall not exceed total receipts. If total outlays do not exceed total receipts, there shall be no debt of the United States for that fiscal year. If total outlays do exceed total receipts, there shall be a debt of the United States for that fiscal year which in any case shall not exceed the amount by which total receipts for that fiscal year exceed the total outlays for that fiscal year. If a debt of the United States is incurred for any fiscal year, there shall be no debt of the United States for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House by a roll call vote.

SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a roll call vote.

SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress an executive statement discussing the proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts. If total outlays do exceed total receipts, such statement shall discuss the manner in which the Congress might reduce total outlays for that fiscal year. If a debt of the United States is incurred for any fiscal year, there shall be no debt of the United States for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House by a roll call vote.

SECTION 4. No tax increase in any fiscal year shall be required unless approved by a majority of the whole number of each House by a roll call vote.

SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

SECTION 7. Total receipts shall include all receipts of the Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for repayment of principal amounts borrowed.

SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

Mr. HATCH. Mr. President, I am pleased to be joining the majority leader this morning in introducing, along with Senator SIMON, Senator THURMOND, Senator CRAIG, and others, a balanced budget amendment to the Constitution. This is the consensus amendment developed through decades of study, work, hearing, debates, and discussions.

It is appropriate that it hold a place of honor as Senate Joint Resolution 1 in this new Congress. Its debate and adoption will be a major step in the history of this Congress itself and its relationship with the American people. The people's frustration with the Washington ways of a profligate Congress and an unresponsive and irresponsible Federal bureaucracy is not new, but it has been growing. That fact should be no surprise.

The national debt is fast approaching $4 trillion. This means every man, woman, and child in the state of Utah and all other States has a debt burden of $8,900.

The profound implications of our mammoth debt are that our children are being shackled with an insurmountable burden as a result of our largess. Perhaps the most significant effect of today's uncontrolled borrowing, however, will be a reduction in the political choices available to future governments of this Nation. Next year, some estimates suggest, interest will consume almost 24 percent of all Federal revenues—at $296 billion, that is more than total Federal revenues in 1975. Imagine that. What we now pay in interest was more than the Government took in in total just 20 years ago.

When the people of my home State think of leaving a legacy to their children and grandchildren, this is not what they think of. They don't expect to make their children and grandchildren pay their credit card bills, but this is the inheritance their government is creating for them. Together with that debt comes a weakened economy, a weakened trading posture, and—worst of all—a less sound, less responsive, and less responsible government. Most parents and grandparents want to leave a brighter, not a darker, future for their loved ones.

The promise of strong, responsible government the founding generation left embodied in the Constitution has not been kept by those who recently have stood in their place. The national Government has grown increasingly profligate over recent decades. We have a duty to do better.

The American people understand this. I regularly receive mail from Utahns asking why the Federal Government cannot balance its budget in the same way that families and businesses do.

There is concern about the way the Federal Government soaks up capital to make interest payments which could...
be used for private investment or Governor health, housing, or education programs. They all echo the concern that an integral part of constitutional responsibility has been lost in recent decades, that of fiscal discipline, the simple notion that government should live within its means and not bind future taxpayers to pay for current consumption without real return. That is why over 85 percent of Americans favor a balanced budget amendment.

Congress has proven itself wholly incapable of controlling its deficit addiction and I believe the strong trend toward the clear constitutional mandate to make it get clean and sober. A balanced budget constitutional amendment is necessary to force Congress to keep faith with voters who expect them to end the fiscal folly. Only the constitutional discipline of a balanced budget amendment can return sanity to an out-of-control budgetary process.

The proposed amendment is wholly consistent with the Constitution in scope if it provides assurance of what Madison called “auxiliary precautions” to help ensure that a government of human beings would—to the greatest extent possible—be governed by the better angels of our human nature. The amendment promises the blessings of limited government and liberty promised by the Framers of the Constitution.

The amendment, in restoring limited government, preserves a rule of fiscal responsibility that, for much of our history, literally went without saying. It addresses a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to approve new taxes in order to pay for new spending programs. Rather than having to cast such politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending.

The balanced budget amendment proposes to overcome this spending bias by replacing the weak engine of Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution, and it does not propose to intrude the Constitution into the competition between the taxpayers and the taxpayers is a more equal one in which spending decisions will once more be constrained by available revenues.

Nor will passage and ratification of the balanced budget amendment lead to intrusive Federal court interference in the budgeting process. The well-recognized Article III standing and justiciability, as well as the political question doctrine, act as a deterrent to unnecessary judicial activism. Furthermore, Congress’ ability to define the jurisdiction of the Federal courts, pursuant to article III of the Constitution and section 6 of the balanced budget amendment, allows Congress to prevent judicial activism should it arise, through implementing legislation.

Statutory efforts to control spending are inadequate—pure and simple. They are short term. Any balanced budget statute can be repealed, in whole or in part, by Congress. And so long as Congress retains the power to adopt a new statute. The spending bias in Congress, however, is a permanent problem. It demands a permanent constitutional solution. The virtue of a constitutional amendment is that it can impose this longer rule to overcome the spending bias.

This amendment is not a panacea for the economic problems of the Nation. The amendment is, however, a necessary step toward securing an environment more conducive to honest and accountable fiscal decision making. It moves us toward the kind of debate about priorities and the role of the Federal Government that are the essence of responsible government—the kind that our predecessors in government, the founders left us and the kind the voters require of us in this Congress.

I am extremely pleased to stand side-by-side with my colleagues from both sides of the aisle as we unveil today an amendment that establishes constitutional limitations on federal spending and deficit practices. I want to pay special tribute to my colleague Senator Simon, who has been a critical leader in this effort virtually every year that he has been in the U.S. Congress. We look forward to his continued participation.

I sincerely hope that this will be the year we approve this amendment and send it to the States for ratification to save future generations of Americans from this heavy and debilitating economic burden.

Mr. CRAIG. Mr. President, this afternoon, let me join with Senator Glenn in support of the balanced budget amendment of Senators KEMPTHORNE of Idaho and the effort they both have pursued in bringing S. 1 to the floor for its early consideration. I know of no other piece of legislation, except my balanced budget amendment, that both here in the Senate and the House will pass, then to send it to the States for ratification. And I believe that day will occur this year.

I also want to note our new Senate colleagues who have shown leadership and enthusiasm on this legislation when they were in the other body, including the Senators from Arizona [Mr.
The people have a right to take part in such a momentous debate.

A constitution is a document that enumerates and limits the powers of the Government to protect the basic rights of the people. Within that framework, it sets forth just enough procedures to safeguard its essential operations. It deals with the most fundamental responsibilities of the Government and the broadest principles of governance.

Our balanced budget amendment, Senate Joint Resolution 1, fits squarely within that constitutional tradition.

The case for the balanced budget amendment stand up as follows: The ability of the Federal Government to borrow money from future generations involves decisions of such magnitude that they should not be left to the judgments of transient majorities.

The right at stake is the right of the people—today and in future generations—to be protected from the burdens and harms created when a profiteering government amasses an intolerable debt.

The Framers of the Constitution recognized that fundamental right. I return once more to the words of Thomas Jefferson, who explicitly elevated balanced budgets to this level of morality and fundamental rights when he said:

The question whether one generation has the right to impose burdens on the next by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Actually, deficit spending is a form of taxation without representation. Americans are told that deficits are Uncle Sam’s way of giving them a free lunch, providing $1.15 worth of Government for just $1 in taxes. In reality, interest on the gross debt adds another 20 cents in spending above and beyond every $1 the Government spends on benefits, goods, services, and overhead. Deficit spending is the worst tax of all, since they never stop taking the taxpayers’ money. Americans are paying now, with a sluggish economy, for the Government’s past addiction to debt. Unless things change, the next generation will pay them more dearly.

The President’s own 1995 budget, in its “Analytical Perspectives” volume, projected that future generations will pay as much as 82 percent of their lifetime incomes in taxes, under the current policies of borrow-and-spender.

Federal budget deficits are the single biggest threat to our economic security. The Federal debt now totals $4.7 trillion, or about $18,000 for every man, woman, and child in America, and is growing.

As deficits grow, as the national debt mounts, so do the interest payments made to service that debt. Besides crowding out other fiscal priorities, these amounts to a highly regressive transfer of wealth.

In fact, interest payments to wealthy foreigners make up the largest foreign aid program in history. According to the President’s budget, in 1993, the U.S. Government sent $41 billion overseas in interest payments. That’s almost exactly twice as much as all spending on actual international programs, including foreign aid and operating our embassies abroad, which totaled less than $21 billion.

Annual gross interest on the debt now runs about $300 billion, making it now the second largest item of Federal spending, and equal to about half of all personal income tax payments.

There are many issues relating to this amendment, which will be aired fully and fairly when the Senate considers Senate Joint Resolution 1 later this month. At that time, we will again recall our almost 4,000 pages of legislative history over the last 15 years. Every question has been answered, every objection has been dealt with. Senate Joint Resolution 1 has a history; it has a pedigree. It is the bipartisan, bicameral, consensus that has been reached at by constitutional scholars, economists, public interest groups, and members of both bodies. This amendment has been scrubbed and fine-tuned. It passes constitutional muster. It often said that Congress underestimates the wisdom of the people. Well, the people have spoken once again, and it’s time for Senators to realize that, today, as is usually the case, good policy is good politics. The American people understand the balanced budget amendment. They want Congress to pass it, and they are right.

By Mr. THURMOND (for himself, Mr. Dole, and Mr. SIMPSON): S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

LINE-ITEM VETO LEGISLATION

Mr. THURMOND. Mr. President, I rise today with the distinguished Majority Leader, Senator Dole, to introduce a proposed constitutional amendment which would give authority to the President to disapprove specific items of appropriation on any Act or joint resolution submitted to him. This authority is commonly referred to as line item veto.

The Constitution must address runaway spending if we are truly going to establish a sound fiscal policy for this Nation.

As of November 16, 1994, the Federal debt stood at $4.6 trillion and payment of interest on the debt is the second largest item in the budget. The budget deficit for fiscal year 1993 was over $250 billion.

Recently, Majority Leader DOLE and Speaker GINGRICH met with President Clinton concerning legislative priorities in the 104th Congress. I am pleased to note that granting Presidential authority for line item was favorably discussed. Also, the Chairman...
of the Senate Judiciary Committee, Senator HATCH, who once opposed a constitutional amendment on line item veto authority, now has come to appreciate the merit of this worthy proposal.

I believe the Judiciary Committee should quickly act on this important measure and send it to the Senate. In April, the Judiciary Committee favorably reported my proposed constitutional amendment on line item veto authority which was the same legislation that I am introducing today.

Before that vote in 1990, the Judiciary Committee last approved a proposed constitutional amendment to grant the President line item veto authority in 1884.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Too often there are items tucked away in these bills that represent millions of dollars that would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the bill in its entirety.

...
The BBSLA thus attacks the cause of deficits head on—it limits spending. And, by linking spending to the size of the economy as measured by GNP—it not only recognizes the reality that a growing economy produces more revenue, but also gives Congress an incentive to support policies that ensure that economy is indeed healthy and growing. On the other hand, a growing economy—as measured by GNP—would increase the dollar amount that Congress is allowed to spend. So, if Congress wants to spend more money, it would have to support policies that promote economic growth.

Mr. President, it appears that a balanced budget amendment will pass this year. It is now time to ask which balanced budget amendment best meets the Nation’s long-term needs; which amendment best addresses the root causes of the Nation’s budget problems.

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

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

S.J. Res. 3

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurred therein, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution of the United States, which shall be proposed in Congress for ratification by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

"SECTION 2. Except as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 percent of the Nation’s gross national product for that fiscal year.

"SECTION 3. The Congress may, by law, provide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which the number of the House shall be reduced to ten by the roll call vote for a specific excess of outlays over receipts or for 19 percent of the Nation’s gross national product.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include those made by the United States except those for the repayment of debt principal.

"SECTION 5. This article shall apply to the second fiscal year beginning after its ratification and to subsequent fiscal years, but not to fiscal years beginning before October 1, 2003.".

By Mr. THURMOND:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, I rise today to introduce legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget.

This legislation is essentially the same as Senate Joint Resolution 8 which I introduced in the 103d Congress and is similar to an earlier bill in March of 1986 which received 66 of 67 votes needed for Senate approval. Also, the Senate passed a balanced budget amendment in 1982 but was defeated in the House of Representatives. Simply stated, this legislation calls for a constitutional amendment requiring that outlays not exceed receipts during any fiscal year. Also, Congress would be allowed to adopt a specific level of deficit spending. Further, the Congress could waive the amendment during time of war. Finally, the amendment would also require that any bill to increase taxes be approved by a majority of the whole number of both Houses.

It is clear that the budget deficit is a top priority with the American people. Additionally, this legislation would be a key step to reduce and ultimately eliminate the Federal deficit. The interest on this problem has attracted the views to the need for solutions to our Nation’s runway fiscal policy.

Our Constitution has been amended only 27 times in over 200 years. Amendment to the supreme law of our land is a serious endeavor which should only be reserved to protect the fundamental rights of our citizens or to ensure the survival of our system of government.

Mr. President, I believe that the very survival of our system of government is presently being jeopardized by an irrational and irresponsible pattern of spending which has become firmly entrenched in Federal fiscal policy over the last half-century. As a result, this fiscal policy has gone a long way toward seriously threatening the liberties and opportunities of our present and future citizens.

As of November 16, 1994, the Federal debt is over $4.6 trillion. Per capita, the Federal debt is over $16,000. This means that every man, woman and child in America $16,000 each to pay off the public debt. The Federal deficit for fiscal year 1993 was $255 billion. In order to solve the deficit problem, congressional spending must be addressed.

I have believed for many years that the way to reverse the misguided direction of the fiscal government is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. I know many of my colleagues from both parties agree.

Those who oppose a balanced budget constitutional amendment and opt instead for self-imposed congressional restraint must face the fact that this restraint has not been forthcoming. Importantly, the Congress has only balanced the Federal budget one time in the last 32 years. Meanwhile, the level of annual budget deficits has grown enormously over this period of time. Continued deficit spending by the Federal Government will undoubtedly lead the Nation into more periods of economic stagnation and decline. The tax burdens which today’s deficits will place on future generations of American workers is staggering. We must reverse the fiscal course of the Federal Government and a constitutional amendment is the only effective way to accomplish it. It is time for Congress to understand the simple fact that a balanced budget cannot survive by continuing to spend more money than it takes in.

Mr. President, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds diverse views on many issues. Supporters of a balanced budget amendment share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

I urge my colleagues to support this proposal so we may submit this important constitutional amendment to the States for ratification.

By Mr. THURMOND:

S.J. Res. 5. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today I am introducing a proposed amendment to the Constitution which would require Federal judges and certain other officers of the United States to forfeit their offices upon conviction of a felony.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for certain officers of the United States to continue to receive a salary even after being convicted of a felony. If they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment, a process which can occupy a great deal of valuable time and resources of the Congress.

Mr. THURMOND. Mr. President, the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when a court has found an official guilty of a serious crime, it should not be necessary for Congress to then essentially re-try the official before he or she can be removed from office.

The constitutional amendment which I am introducing will provide that any officer of the United States who is appointed by the President and confirmed
by the Senate, upon conviction of a fel-
ony or exhaustion of all direct ap-
peals, shall be removed from office and
shall lose all salary and benefits aris-
ing from service in such office.

Mr. President, I urge my colleagues
to carefully consider this proposal and
ask unanimous consent that it be printed
in the RECORD.

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

S. J. Res. 5

Resolved by the Senate and House of Rep-
resentatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Con-
stitution of the United States, which shall be valid to all intents and purposes as part of the constitution if ratified by the legisla-
tures of three-fourths of the several States
within seven years after its submission to the State for ratification:

"ARTICLE—

"Any officer of the United States ap-
pointed by the President with the advice and
consent of the Senate, upon conviction of a fel-
ony or exhaustion of all direct ap-
peals, shall lose all salary and benefits aris-
ing from service in such office.

By Mr. THURMOND (for himself,
Mr. FAIRCLOTH, Mr. LOTT, and
Mr. SHELBY):

S. J. Res. 6. A joint resolution propos-
ing an amendment to the Constitution of the United States relating to vol-
untary school prayer; to the Commit-
tee on the Judiciary.

VOLUNTARY SCHOOL PRAYER AMENDMENT

Mr. THURMOND. Mr. President,
today, I am introducing, along with
Senators FAIRCLOTH, LOTT and SHELBY,
the voluntary school prayer constitutional
amendment. This bill is identical
to S. J. Res. 73 which I introduced
in the 98th Congress at the request of the
President and reintroduced in the
99th, 100th, 101st, 102d, and 103d
Congress.

This proposal has received strong
support from our colleagues on both
sides of the aisle and is of vital impor-
tance to our Nation. It would restore
the right to pray voluntarily in public
schools—a right which was freely exer-
cised under our Constitution until the
1960's, when the Supreme Court ruled to the contrary.

Also, in 1965, the Supreme Court
ruled an Alabama statute unconstitu-
tional which authorized teachers in
public schools to provide a period of si-
cence, for meditation or voluntary
prayer at the beginning of each school
day. As I stated when that opinion was
issued and repeat again—the Supreme
Court has too broadly interpreted the
establishment clause of the first
amendment and, in doing so, has incor-
rectly infringed on the rights of those
children—and their parents—who wish
to observe a moment of silence for reli-
gious or other purposes.

Until the Supreme Court ruled in the
Engel and Abington School District de-
cisions, the establishment clause of the
first amendment was generally under-
stood to prohibit the Federal Govern-
ment from officially approving, or
holding in special favor, any particular
religious faith or denomination. In
crafting that clause, our Founding Fa-
thers sought to prevent what has origi-
nally caused many colonial Americans
to emigrate to this country—an offi-
cial, State, religious establishment. In
the same way, they sought, through the free exercise
clause, to guarantee to all Americans the freedom to worship God without
government interference or restraint.

In their wisdom, they recognized that true religious liberty precludes the
Government from both enforcing and pre-
venting worship.

As Supreme Court Justice William
Douglas once stated: "We are a reli-
gious people whose institutions pre-
suppose a Supreme Being." Nearly
every President since George Wash-
ington has proclaimed a day of public
prayer. Moreover, we, as a Nation, con-
tinue to recognize the Deity in our
Pledge of Allegiance by affirming that
"We are a Nation under God." Our cur-
rency is inscribed with the motto, "In
God We Trust". In this body, we open
the Senate and begin our workday with the comfort and stimulus of voluntary
group prayers—such a practice has
been recently upheld as constitutional
by the Supreme Court. It is unreason-
able that the opportunity for the same
beneficial experience is denied to the
boys and girls who attend public
schools. This situation simply does not
comport with the intentions of the
framers of the Constitution and is, in
fact, antithetical to the rights of our
youngest citizens to freely exercise
their respective religions. It should be
changed, without further delay.

The Congress should swiftly pass this
resolution and send it to the States for
ratification. This amendment to the
Constitution would clarify that it does
not prohibit vocal, voluntary prayer in
the public school and other public in-
stitutions. It emphatically states that
no person may be required to partici-
pate in any prayer. The Government
would be precluded from drafting school
prayers. This well-crafted
amendment enjoys the support of an
overwhelming number of Americans.

During the 98th Congress, we were only
11 votes short of the 67 necessary for
approval in the Senate.

I strongly urge my colleagues to sup-
port prompt consideration and ap-
proval of this amendment during this
Congress and ask unanimous con-
sent that it be printed in the RECORD.

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

S. J. Res. 6

Resolved by the Senate and House of Rep-
resentatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which
shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several
States within seven years from the date of its submission to the States by the Congress:

"ARTICLE—

"Nothing in this Constitution shall be con-
strued to prohibit individual or group prayer
in public schools or other public institutions.
No person shall be required by the United
States or by any State to participate in
prayer. Neither the United States nor any
State shall compose the words of any prayer
to be said in public schools."

By Mr. HATCH (for himself, Mr.
BROWN, Mr. ABRAHAM, Mr.
LOTT, Mr. KEMPTHORNE, Mr.
SHELBY, Mr. SMITH and Mr.
CRAGH THOMAS):

S. J. Res. 8. A joint resolution propos-
ing an amendment to the Constitution of the United States barring Federal
unfunded mandates to the States; to the
Committee on the Judiciary.

UNFUNDED FEDERAL MANDATES
CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, I am
today introducing in the Senate a joint
resolution proposing a constitutional
amendment that would grant States
and localities relief from any further
unfunded Federal mandates.

This amendment would restore the
balance between the Federal and State
government. Freeing States and
localities of the burden of unfunded
mandates will enable our State and
local representatives to carry out the
agenda—whether liberal or conserva-
tive—that their people have elected
them to carry out.

Let me emphasize that this joint
resolution is not intended as an alter-
native to the unfunded mandates legis-
lation that Senator KEMPTHORNE is of-
fing as S. 1. I fully support Senator
KEMPTHORNE's bill, and I am pleased to
have Senator KEMPTHORNE's support for this
joint resolution. Senator
KEMPTHORNE's bill will be a major first
step in providing relief from unfunded
mandates. This amendment will
provide the next big step.

No act is more central to our con-
stitutional structure than the relation
between the Federal and State govern-
ments. We should not tinker with the
Constitution. But we should also not
accept, much less acquiesce in, the
fundamental damage that has been in-
flicted on our constitutional structure.
It is time to restore this structure.

Attached is a section-by-section
analysis of this unfunded mandates
amendment.

There being no objection, the mate-
rial was ordered to be printed in the
RECORD, as follows:
The amendment would impose dramatic new limits on the federal government's power to subject States and localities to unfunded mandates. An amendment would also bar conditional mandates on the receipt of federal assistance by States and localities—e.g., in spending programs—unless the condition is directly and substantially related to the specific subject matter of the federal assistance (and again subject to a 2/3 override). The amendment would also codify the Supreme Court's 1992 ruling in Garcia v. United States, 112 S. Ct. 2408 (1992). The amendment would apply only prospectively—that is, only to statutes that become effective after it has been ratified.

Here is a section-by-section analysis:

Section 1: Section 1 has two parts. First, it provides that federal statutes cannot impose or authorize direct unfunded mandates on States and localities. Were this the only provision, Congress would then simply condition all of its mandates on assistance that States could accept. Accordingly, it is also necessary to limit Congress’ power to impose conditional mandates (e.g., as part of a spending program). This is done through the second part of Section 1. The requirement that a condition be “directly and substantially related to the specific subject matter of the assistance” is a significant improvement over existing constitutional case law, which requires only that conditions be “reasonably related” to the “purpose” of the assistance.

Section 2: Section 2 provides an exception to section 1: where Congress so specifies by a 2/3 vote, unfunded obligations or loosely related conditions may be imposed on States and localities. This provision ensures that in those cases in which mandates are truly warranted, they can be adopted.

Section 3: Section 3 codifies the Supreme Court’s ruling in New York v. U.S., 112 S. Ct. 2408, 2435 (1992), that under the Tenth Amendment the “Federal Government may not compel the States to enact or administer a federal regulatory program.”

Section 4: Section 4 provides that the term “State” applies to State agencies and to cities and counties.

Section 5: Section 5 makes clear that the amendment would apply only prospectively.

Section 6: Section 6 is designed to make clear that federal courts could not order federal funding as a remedy for a violation of section 1. Instead, the consequence of a violation is that the obligation is not enforceable against the State or locality.

Section 7: Section 7 protects against the amendment somehow being misconstrued to expand federal power.

By Mrs. FEINSTEIN:

S.J. Res. 10. A joint resolution to designate the visitors center at the Channel Islands National Park, California, as the “Robert J. Lagomarsino Visitors Center”; to the Committee on Energy and Natural Resources.

The Robert J. Lagomarsino Visitors Center Act of 1995

Mrs. FEINSTEIN. Mr. President, today I am introducing a resolution to designate the visitors center at the Channel Islands National Park, California, as the “Robert J. Lagomarsino Visitors Center.” I am pleased to say Congresswoman ELTON GALLEGY is introducing a resolution to designate the visitors center at the Channel Islands National Park, California, as the “Robert J. Lagomarsino Visitors Center.”
News organizations have also asked that the cameras that cover the Senate floor, controlled by government employees, be operated by journalists. That is an idea which is in my view worthy of serious consideration. Clearly, while current coverage of the Senate has provided the public with a greater understanding of the legislative process, improvements can be made. I plan to consult with Senator Daschle on the formation of a bipartisan Senate working group to examine this issue, and all its implications. In the meantime, I will suggest to the Rules Committee that they consult with broadcast news journalists to consider appropriate changes to the procedures determining camera coverage of floor activity, with an eye towards making the coverage as complete as possible.

Mr. President, I ask unanimous consent that a letter from Brian Lamb, chief executive officer of C-SPAN, as well as my response to him, be included in the Congressional Record. I also note that I have had similar correspondence with Bill Headline, chairman of the executive committee of correspondents of the Senate radio-television gallery. There being no objection, the material was ordered to be printed in the RECORD, as follows:

C-SPAN,

Re further opening up the Senate to C-SPAN cameras.

Senator Robert Dole,
Republican Leader, U.S. Senate, Washington, DC.

Dear Senator Dole: As you and your colleagues prepare to take the leadership of the Senate, we’ve noted with interest an increasing national discussion about how to expand public access to the legislative process.

We at C-SPAN are among those who have long been interested in expanding the public’s access to Congress. As such, we would like to offer this proposal which we hope can contribute to this goal: Consider opening the 104th Congress fully to television coverage. C-SPAN has kept cameras on the chamber and open up the other venues we’ve considered from this important, final step in the legislative process. Budget Conferences are one important example. We propose that the public be allowed to witness via television—the debate and decision making that finally determines how their tax dollars are being spent.

As you can imagine, going forward with all of these proposals would require considerable additional resources from C-SPAN. You should know that the cable television industry, which is responsible for creating and funding C-SPAN and C-SPAN2, is committed to providing the additional resources necessary to expand our coverage of Congress.

It took many years for the Senate to agree to televise its sessions. Since then, other developments have followed suit—several of them allowing more complete television pictures than American citizens now get. We hope you’ll agree that after eight years, it’s time for the Senate to take the next step—consider allowing C-SPAN cameras into the chamber and open up the other venues we’ve suggested. Expand what American citizens can see: make the television picture of Congress more complete, and therefore, more honest.

As you consider our proposals we are, of course, happy to provide you with any additional technical information you may need.

Sincerely,
Brian Lamb,
Chief Executive Officer.

P.S.—A similar letter is being sent today to leaders of the House; we will also be releasing copies to our colleagues in the media.

Robert Carnahan
Office of the Republican Leader

Mr. Brian Lamb,
Chief Executive Officer, C-SPAN, Washington, DC.

Dear Brian: As you know, I have been a strong supporter of C-SPAN, broadcast coverage of the proceedings of the United States Senate, and media access in the United States Capitol. I am very interested in the ideas outlined in your letter of November 21st, and I appreciate the time you spent with my staff last week to discuss your suggestions for further opening up coverage of the Senate. While I do not have the personal authority to make the changes you propose, I want to do what I can to increase public access to Congress.

I am prepared to immediately open to television cameras the Majority Leader’s so-called “dugout” briefings for reporters. Because allowing broadcast coverage from the Senate floor when the Senate is not in session would require a Senate resolution, I may hold these briefings at a location off the Senate floor at least until such a resolution is adopted. I would also consider a similar opportunity for the Minority Leader.

I will consult with Senator Daschle before introducing a resolution.

I also support opening all public meetings of Senate-House conference committees to television cameras. As you know, this would require a concurrent resolution passed by both houses of Congress, and I will consult with Senator Daschle and Speaker Gingrich on initiating such a resolution.

While I believe the current coverage of the Senate has provided the public with a greater understanding of the legislative process, improvements can clearly be made. Your suggestion that we permit cameras operated by new organizations to provide coverage of the Senate is worthy of serious consideration. I will consult with Senator Daschle on forming a bipartisan Senate working group to examine this issue and craft appropriate changes to the procedures determining camera coverage of floor activity, with an eye towards making the coverage as complete as possible.

As Republicans prepare to assume majority status in the Senate, we look forward to working with you. Thanks again for your constructive suggestions.

Sincerely,

Robert Dole
Senate Republican Leader.
SENATE RESOLUTION 3—FIXING THE HOUR OF THE DAILY MEETING OF THE SENATE

Mr. COCHRAN submitted the following resolution, which was considered and agreed to:

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 4—ELECTING HON. STROM THURMOND TO BE PRESIDENT PRO TEMPORE OF THE SENATE

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution, which was considered and agreed to:

Resolved, That the Honorable Strom Thurmond, a Senator from the state of South Carolina, be and he is hereby elected President pro tempore of the Senate.

SENATE RESOLUTION 5—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution, which was considered and agreed to:

Resolved, That Sheila Burke, of Virginia, be and she is hereby elected Secretary of the Senate, beginning January 4, 1995.

SENATE RESOLUTION 6—ELECTING SHEILA BURKE AS THE SECRETARY OF THE SENATE

Mr. DOLE submitted the following resolution, which was considered and agreed to:

Resolved, That Sheila Burke, of Virginia, be and she is hereby elected Secretary of the Senate, beginning January 4, 1995.

SENATE RESOLUTION 7—RELATIVE TO THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. DOLE submitted the following resolution, which was considered and agreed to:

Resolved, That Howard O. Greene, Jr., of Delaware, be and he is hereby elected Sergeant at Arms and Doorkeeper of the Senate, beginning January 4, 1995.
SENATE RESOLUTION 15—TO MAKE MAJOR PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. LOTT (for Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 15

Resolved, That the following shall constitute the majority party's membership on the following standing committees for the 106th Congress, or until their successors are chosen:

Committee on Armed Services: Mr. Thomas, Mr. Warner, Mr. Cohen, Mr. McCain, Mr. Lott, Mr. Coats, Mr. Smith, Mr. Kehoe; Mrs. Hutchison, Mr. Inhofe, and Mr. Santorum.

Committee on Banking, Housing, and Urban Affairs: Mr. D'Amato, Mr. Gramm, Mr. Shelby, Mr. Bond, Mr. Mack, Mr. Faircloth, Mr. Bennett, Mr. Grams, and Mr. Frist.

Committee on Commerce, Science, and Transportation: Mr. Pressler, Mr. Packwood, Mr. Stevens, Mr. McCain, Mr. Burns, Mr. Gorton, Mr. Lott, Mrs. Hutchison, Ms. Snowe, and Mr. Ashcroft.

Committee on Finance: Mr. Packwood, Mr. Dole, Mr. Breaux, Mr. Grassley, Mr. Hatch, Mr. Simon, Mr. Prager, Mr. D'Amato, Mr. Murkowski, and Mr. Nickles.

Committee on the Judiciary: Mr. Hatch, Mr. Thurmond, Mr. D'Amato, Mr. Grassley, Mr. Specter, Mr. Brown, Mr. Thompson, Mr. Kyl, Mr. DeWine, and Mr. Abraham.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Pell, Mr. Dodd, Mr. Akaka, and Mr. Dorgan.

Committee on Agriculture, Nutrition, and Forestry: Mr. Leahy, Mr. Pryor, Mr. Harkin, Mr. Conrad, Mr. Daschle, Mr. Breaux, Mr. Glenn, Mr. Nunn, Mr. Heflin, Mr. Mikulski, Mr. Reid, Mr. Kerry, Mr. Bingaman, Mr. Glenn, Mr. Byrd, Mr. Robb, Mr. Lieberman, and Mr. Bryan.

Committee on Environment and Public Works: Mr. Breaux, Mr. Bingaman, Mr. Akaka, Mr. Wellstone, and Mr. Campbell.

Committee on Energy and Natural Resources: Mr. Johnston, Mr. Bumpers, Mr. Ford, Mr. Bradley, Mr. Bingaman, Mr. Akaka, Mr. Wellstone, and Mr. Campbell.

Committee on Foreign Relations: Mr. Pell, Mr. Biden, Mr. Sarbanes, Mr. Dodd, Mr. Kerry (MA), Mr. Robb, Mr. Feingold, and Mrs. Feingold.

Committee on Governmental Affairs: Mr. Glenn, Mr. Nunn, Mr. Levin, Mr. Pryor, Mr. Lieberman, Mr. Akaka, and Mr. Dorgan.

Committee on Governmental Affairs: Mr. Biden, Mr. Kennedy, Mr. Leahy, Mr. Heflin, Mr. Simon, Mr. Kohl, Mrs. Feinstein, and Mr. Feingold.

Committee on Labor and Human Resources: Mr. Dole, Mr. Dodd, Mr. Simon, Mr. Harkin, Ms. Mikulski, and Mr. Wellstone.

SENATE RESOLUTION 17—RELATIVE TO THE STANDING RULES OF THE SENATE

Mr. Daschle submitted the following resolution; which was considered and agreed to:

S. Res. 17

Resolved, That paragraph 4 of Rule XXV is amended by striking (h)(1) through (h)(15) and inserting in lieu thereof the following:

(h)(1) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance, during the One Hundred Fourth Congress, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(2) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs and the Committee on Foreign Relations, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(3) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(4) A Senator who on the last day of the One Hundred Third Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Environment and Public Works, during the One Hundred Fourth Congress, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Foreign Relations, during the One Hundred Fourth Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(5) A Senator who on the last day of the One Hundred Third Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(6) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Environment and Public Works, during the One Hundred Fourth Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(7) A Senator who on the last day of the One Hundred Third Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(8) A Senator who on the last day of the One Hundred Third Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(9) A Senator who on the last day of the One Hundred Third Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(10) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(11) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(12) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(13) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(14) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(h)(15) A Senator who on the last day of the One Hundred Fourth Congress was serving as a member of the Committee on Armed Services and the Committee on Commerce, Science, and Transportation may during the One Hundred Fourth Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

SENATE RESOLUTION 18—RELATIVE TO THE REAPPOINTMENT OF MICHAEL DAVIDSON AS SENATE LEGAL COUNSEL

Mr. LOTT (for Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 18

Resolved, That the reappointment of Michael Davidson to be Senate Legal Counsel made by the President pro tempore of the Senate this day is effective as of January 3, 1995, and the term of service of the appointee shall expire at the end of the One Hundred Fifth Congress.

SENATE RESOLUTION 19—RELATIVE TO COMMITTEE FUNDING

Mr. Dole (for himself, Mr. Daschle, Mr. Domenici, Mr. Mack, and Mr. Nickles) submitted the following resolution; which was indefinitely postponed:

S. Res. 19

Resolved, It is the sense of the Senate that the Committee on Rules and Administration when it reports the committee funding resolution for 1996-97 it should reduce funding for the Committee on Appropriations by 15 percent from the level provided for in 1993-94.
Therefore, Mr. President, the purpose of the Senate resolution I am offering today is to avoid such criticism in the future by beginning now earnest consideration of plans to restructure the Ethics Committee.

Mr. President, there must never again be a repeat of the Keating Five scenario which was for renar to 2 years on end and ultimately cost the Senate a great deal in terms of public confidence. Having been a member of the Ethics Committee during the ordeal, I certainly imply no criticism of anyone who participated in the Keating Five proceedings; the fault was in the system—not in those who were trying to make the system work.

The bottom line is that it took the Senate Ethics Committee almost 2 years to consider the Keating matter—it voted to commence its preliminary inquiry on December 21, 1989, and transmitted its report to the Senate on November 19, 1991. At that time, there was a chorus—from all across the political spectrum—demanding a reform of the Ethics Committee and its procedures.

The Senate resolution which I am offering today, is certainly no end-all be-all—it is merely a starting point for discussion. The resolution proposes that the work of the current Ethics Committee be done by a committee of six private citizens—not Senators. At least two members should be retired Federal judges; and another two should be former members of the Senate.

Three members will be selected by the majority leader and three by the minority leader. Each member will serve 6 years—except when initial appointments are made, at which time the terms will be staggered. Members of the committee will serve without compensation—but will be entitled to reimbursement for travel and per diem expenses in accordance with the rules and regulations of the Senate.

I should emphasize again for the purpose of emphasis that this proposal is not at all important, however, that we get started in reforming the Ethics Committee before the Senate is faced with another ethical dilemma on the front pages of the Nation's newspapers.

Mr. President, some discussion was given to re-forming the Senate Ethics Committee in the last Congress by the Joint Committee on the Organization of Congress. A proposal similar to the one outlined in my resolution was discussed at hearings held by the Joint Committee—but was not included in the committee's final proposal—even though it was endorsed by Senator Bryan, the then-chairman of the Ethics Committee. The only changes the Joint Committee in fact approved regarded the Ethics Committee were new standards on disciplinary sanctions.

The Senate too often has been found lagging in proposals to reform itself—thus becoming targets for media accusations of indifference and institutional arrogance. We have an opportunity with the proposed resolution, on the other hand, to start a process by which a strong signal may be sent to the American people that we are in fact willing to change with regards to the manner in which this institution polices its own members.

Mr. President, the American people expect the power to be used for the public good and never for our own benefit or the benefit of the few. Likewise, the American people have a right to expect that Senators who abuse their power and the public trust to be held accountable for their actions—swiftly and justly.

I fully expect, and welcome, suggestions for accomplishing this goal. There will be, and should be, other ideas for reforming the Ethics Committee, ideas that no doubt will enhance and improve the suggestions I am making in my resolution. I reiterate: The time to begin is now, not when the Senate finds itself—again—in the midst of another institutional crisis.

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Mr. President, the American people expect the power to be used for the public good and never for our own benefit or the benefit of the few. Likewise, the American people have a right to expect that Senators who abuse their power and the public trust to be held accountable for their actions—swiftly and justly.

I fully expect, and welcome, suggestions for accomplishing this goal. There will be, and should be, other ideas for reforming the Ethics Committee, ideas that no doubt will enhance and improve the suggestions I am making in my resolution. I reiterate: The time to begin is now, not when the Senate finds itself—again—in the midst of another institutional crisis.
Whereas section 901(b) of such Act (46 U.S.C. App. 1241(b)) requires that at least 50 percent of the gross tonnage of other ocean borne cargo generated directly or indirectly by the Federal Government be carried on United States-flag vessels.

Whereas cargo reservation programs are very important for the shipowners of the United States who require compensation for maintaining a United States-flag fleet.

Whereas the United States-flags fleet that carry reserved cargo provide quality jobs for seafarers of the United States.

Whereas, according to the most recent statistics from the Maritime Administration, in 1990, cargo reservation programs generated $2,400,000,000 in revenue to the United States fleet and accounted for one-third of all revenue from United States-flags foreign trade cargo.

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to Federal cargo reservation laws is declining and will continue to decline.

Whereas, in 1970, Congress found that the degree of compliance by Federal agencies with the requirements of the cargo reservation laws was chaotic, uneven, and varied from agency to agency.

Whereas, to ensure maximum compliance by all agencies with Federal cargo reservation laws, Congress enacted the Merchant Marine Act of 1970 (Public Law 91-469) to centralize monitoring and compliance authority for all cargo reservation programs in the Maritime Administration.

Whereas, notwithstanding section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), and the purpose and policy of the Federal cargo reservation programs, compliance by Federal agencies with Federal cargo reservation laws continues to be uneven.

Whereas the Maritime Administrator cited the limited enforcement powers of the Maritime Administration with respect to Federal agencies that fail to comply with section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) and other Federal cargo reservation laws; and

Whereas the Maritime Administrator recommended that Congress grant the Maritime Administration the authority to settle any dispute arising under these programs.

Resolved. That it is the sense of the Senate that:

(1) each Federal agency should administer programs of the Federal agency that are subject to Federal cargo reservation laws (including those of the Maritime Administration) to ensure that such programs are, to the maximum extent practicable, in compliance with the intent and purpose of such cargo reservation laws; and

(2) the Maritime Administration should closely and strictly monitor any cargo that is subject to such cargo reservation laws.

Mr. HATFIELD submitted the following resolution; which was referred to the Committee on Governmental Affairs.

SENATE RESOLUTION 23—RELATIVE TO THE OREGON OPTION

Mr. HATFIELD submitted the following resolution; which was referred to the Committee on Governmental Affairs.

WHEREAS Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

WHEREAS historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed requirements relating to the use of funds which are often delivered by State and local governments;

WHEREAS although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

WHEREAS it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's States and communities to be innovative in creating new service delivery methods that meet the unique needs of the people in their communities while continuing to address and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

WHEREAS the State and local governments of Oregon have proposed a pilot project, called the Oregon Option, that would utilize strategic planning, performance-based management that may provide the new model for intergovernmental social service delivery;

WHEREAS the Oregon Option is a prototype of a new intergovernmental relations system, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a...
system of intergovernmental service delivery is conducted on the "Oregon Option".

The principles and responsibilities covered in this memorandum are intended to improve the coordinated delivery of intergovernmental programs. This memorandum does not commit any of the parties to a particular level of commitment, but it is intended to create any right or benefit or diminish any existing right or benefit, substantive or procedural, enforceable at law by a party against the United States, State of Oregon, any state or federal agency, any state or federal official, any party of this agreement, or any person. While significant changes to the intergovernmental service delivery system are anticipated as result of this effort, this is not a legally binding or enforceable agreement. Nothing in this memorandum alters the responsibilities or statutory authorities of the Federal agencies, or State or local governments.

V. AUTHORITIES

The purpose of this Memorandum Of Understanding is to encourage and facilitate cooperation between Federal, State, and local entities to redesign and test an outcomes-oriented approach to intergovernmental service delivery. This special partnership and agreement will serve as a demonstration of principles and practices which may serve as a model for improvements nationwide.

II. BACKGROUND

In July 1994, the Oregon Option posited a multi-year demonstration with the Federal Government to redesign intergovernmental service delivery, structured and operated to achieve measurable results that will improve the lives of Oregonians.

Oregon is uniquely suited for an experimental demonstration to develop an outcomes-oriented approach to intergovernmental services. The State and many local governments have begun using an outcomes model for establishing longrange vision, setting public priorities, allocating resources, designing services, and measuring results. The Oregon Legislature has endorsed the Oregon "Benchmarks." Further, many non-profit organizations, businesses, and civic groups in Oregon are aligned to a benchmark process with State, county, and local jurisdictions.

III. PRINCIPLES TO GUIDE COOPERATION

The following principles should guide the parties cooperation in this undertaking:

A re-designed system would be:

Structured, managed, and evaluated on the basis of results (i.e., progress in achieving benchmarks).

Oriented to customer needs and satisfaction, especially through integration of services.

Biased toward prevention rather than remediation of problems.

Simplified and integrated as much as possible, delegating responsibilities for service, design of delivery results to front-line local-level providers, whether they are local agencies or local offices of state agencies.

IV. RESPONSIBILITIES OF THE PARTIES

The parties to this memorandum will work together as partners to:(1) identify benchmarks, strategies, and measures that provide a framework for improved intergovernmental service delivery and (2) undertake efforts to identify and eliminate barriers to achieving program results.

OREGON PROGRESS BOARD,
Salem, OR, January 3, 1993.

Hon. Mark O. Hatfield,
U.S. Senator,
Washington, DC.

DEAR SENATOR HATFIELD: Thank you for introducing a Senate Resolution in support of the Oregon Option.

For the past six years, the Oregon Progress Board has been developing and championing Oregon Benchmarks, measurable indicators of how our state is performing in education, health, environmental quality and economic development. The Benchmarks have been extensively reviewed through public meetings, and the measures are used widely to guide public, non-profit and private sectors activities.

Through the Oregon Option, we hope to apply the Oregon Benchmarks to federal programs. The typical federal approach to domestic programs carried out by state and local governments is to structure and manage service delivery from the top down. Officials in Washington define problems and solutions, prescribe service activities, impose complex but often conflicting and wasteful regulations and measure program success based on compliance rather than on true results.

Under the Oregon Option, federal, state and local partners work together to define results-in the form of benchmarks-that they want to achieve with federal dollars. State and local service providers then have the latitude to determine how best to achieve those results. The approach unburdens Oregon's state and local service providers from paperwork and frees their time and energy to deliver results.

We hope that the Oregon Option can become a model for a different way to deliver intergovernmental services, a model that empowers communities and front line workers to achieve the results citizens demand. Endorsement by the Senate would give the Oregon Option an enormous boost. We greatly appreciate your support for this effort.

Sincerely,

DUNCAN WYSE,
Executive Director.

MARION COUNTY, OREGON,
BOARD OF COMMISSIONERS,

Hon. Mark O. Hatfield,
U.S. Senator,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing to offer my sincere thanks to you for introducing your Senate Resolution recognizing the importance of the Oregon Option and calling for its full implementation.

The Oregon Option offers us an historic opportunity to create a more responsive, efficient government which gives local communities greater responsibility for their own success. Ultimately, through this collaborative effort, I believe that we can restore credibility for our institutions and redefine governance for our citizens.

Much of the current debate over intergovernmental relations revolves around the level of government at which we place authority and responsibility for delivering services. Such a debate is empty if it does not take the time to ensure accountability for results, which the Oregon Option has as its central focus.

I hope that the Senate will enthusiastically adopt your resolution, and that the Federal Administration will work quickly to fully implement this proposal which is already showing signs of success in Oregon.

Sincerely,

RANDALL FRANKE,
Marion County Commissioner; President, National Association of Counties.

SENATE RESOLUTION 24—PROVIDING FOR THE BROADCASTING OF PRESS BRIEFINGS ON THE FLOOR

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 24

Resolved, That notwithstanding the provisions of S. Res. 28 (99th Congress, 2nd Session), live television coverage of those periods before the Senate comes into session in which the press is allowed on the floor to ask questions of the Majority and Minority Leaders be permitted.

SENATE RESOLUTION 25—RELATIVE TO SECTION 6 OF SENATE RESOLUTION 458 OF THE 98TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 25

Resolved, That, for the purpose of section 6 of Senate Resolution 458 of the 98th Congress (agreed to October 4, 1994), the term "displaced staff member" includes an employee in the office of the Minority Whip who was an employee in that office on January 1, 1995, and whose service is terminated on or after January 1, 1996, solely and directly as a result of the change of the individual occupying the position of Minority Whip and who is so certified by the individual who was the Minority Whip on January 1, 1995.

AMENDMENTS SUBMITTED

RESOLUTION TO AMEND THE RULES OF THE SENATE

HARKIN (AND OTHERS) AMENDMENT NO. 1

Mr. HARKIN (for himself, Mr. LIEBERMAN, Mr. PELL, and Mr. ROBB)
proposed an amendment to the resolution (S. Res. 14) amending paragraph 2 of Rule XXV; as follows:

At the appropriate place, insert the following:

SEC. 2. SENATE CLOTURE PROVISION.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. (a) Notwithstanding the provisions of rule II or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate or the unfinished business, is presented to the Senate, the President, or clerk at the direction of the President, shall at once state the motion to the Senators, and a one hour period for the Senate meets on the following calendar day but one, shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the President shall, without debate, submit to the Senate by a yeas-and-nay vote the question: 'Is it the sense of the Senate that the debate shall be brought to a close?'" And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—such said measure or motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"(b) Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate or the unfinished business. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it has been placed at least 24 hours before the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment in the first degree, shall be on order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"(c) After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at the time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The thirty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"(d) If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be reprinted and considered at the request of the amendment's sponsor. The conferring changes must be limited to lineation and pagination.

"No Senator shall call up more than two amendments to the measure, or motion, or other matter pending before the Senate or the unfinished business, is presented to the Senate, the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, a Senator may yield all or part of his time to the Majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"(e) All amendments made prior to the beginning of the cloture vote if it had been so submitted at least one hour prior to the cloture vote or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"If a Senator who has not used or yielded more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, a Senator may yield all or part of his time to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"(f) After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

"(g) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent debates to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent motions to bring debate to a close until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn.

"(h) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

NOTICE OF HEARING

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, today I am pleased to announce that the Senate Committee on Governmental Affairs will hold a joint hearing with the House Committee on Government Reform and Oversight on Thursday, January 12, 1994, at 10 a.m. in the Rayburn House Office Building, room 2154. This hearing will concern the legislative line-item veto issue. Expert witnesses will testify on the necessity for such legislation.

NOTICE OF INTENT TO AMEND THE STANDING RULES OF THE SENATE

Mr. WELLS. Mr. President, in accordance with rule 5, paragraph 1, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to offer the following amendment during the Senate's consideration of the Congressional Accountability Act of 1995, and the provisions of my amendment would amend rule XXXV of the Standing Rules of the Senate with respect to gifts:

At the appropriate place, insert the following:

SEC. 3. SENATE GIFT RULE.

(a) IN GENERAL.—The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee shall be considered to knowingly accept a gift from any other person.

"(b) For the purpose of this rule, the term ‘gift’ means any gratuity, favor, discount, entertainment, hospitality, loan, fee, compensation, or any other item of value. The term includes gifts of services, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has incurred.

"(b)(1) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual’s relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee, and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

"(b)(2) The restrictions in subparagraph (a) shall apply to the following:

"(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

"(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

"(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

"(4) A contribution or other payment by a lobbyist or foreign agent.

"(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.

"(6) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

January 4, 1995

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"(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, that benefits any individual, members, officers, or employees of the Senate.

"(d) The restrictions in subparagraph (a) shall not apply to the following:

"(1) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 437e et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored or cosponsored by a nonneutral political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 437e et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored or cosponsored by a nonneutral political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Any thing provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) Payment or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the payment or other payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officer or employee of the Senate) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are ordinarily available to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment negotiations or interviews;

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fund-raising periodic event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the member, officer, or employee as a speaker, panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

"(A) a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or event, provided by the sponsor of the event, if—

"(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

"(ii) direct or indirect reimbursement or any other compensation for the value of the gift, and the individual who gave the item.

"(B) in determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

"(iii) Whether the gift was purchased by the individual who gave the item;

"(iv) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

"(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable standards for gifts that may be taken, entertainment offered, and employee pay for activities other than in a group setting.

"(3) Where it is impracticable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed 3

"(a)(1) Except as prohibited by paragraph 1, a reimbursement (including pay for travel, meals, or lodging) for the performance of the official duties or functions of the position of the member, officer, or employee.

"(2) A member, officer, or employee who attends an event described in clause (1) may receive reimbursement in connection with attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.
(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

(b) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

(2) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include:

(1) the name of the employee;

(2) the name of the person who will make the reimbursement;

(3) the time, place, and purpose of the travel; and

(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that member or officer) or by the employee under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

(d) For the purposes of this paragraph, the term ‘necessary transportation, lodging, and related expenses’—

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

(2) is limited to reasonable expenses for transportation, lodging, meals, and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1); and

(3) does not include expenditures for recreational activities, or entertainment other than those that are administrative assistants as an integral part of the event; and

(4) may include travel expenses incurred on behalf of either the spouse or a child of the member or officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

The Secretary of the Senate shall make the required disclosures to the public all advance authorizations and disclosures of reimbursements filed pursuant to subparagraph (a) as soon as possible after they are received.

4. In this rule:

(a) The term ‘client’ means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose direct supervision the employee acts in on its own behalf is both a client and an employer of such employee. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities on behalf of its client, the expression ‘its client(s)’ includes:

(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition’s or association’s dues and assessments; or

(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition’s or association’s dues and assessments.

(b) The term ‘lobbying firm’—

(1) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

(2) includes a self-employed individual who is a lobbyist.

(c) The term ‘lobbyist’ means a person registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or required to be registered under any successor statute.

(d) The term ‘State’ means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(e) REPEAL OF OBSOLETE PROVISION.—Section 301 of the Ethics in Government Act of 1989 (2 U.S.C. 31-2) is repealed.

(f) GENERAL SENATE PROVISIONS.—The Senate Committee on Rules and Administration, on behalf of the Senate, may provide, or direct that gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Senate Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

(g) RULEMAKING.—Subsections (a) and (d) are enacted by the Senate—

(1) as an exercise of the rulemaking power of the Senate as provided pursuant to section 7313(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of the Senate, and such rules shall supersede other Senate rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time in the same manner and to the same extent as in the case of any other rule of the Senate.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on May 31, 1995.
Tribute to Senator Durenberger

Mr. JOHNSTON. For 18 years Senator David Durenberger has advanced cutting-edge ideas reasonably, thoughtfully, and in a timely fashion. When he took up the cudgels for an issue, from clean air to civil rights to managed care, you could be sure that it was an idea whose time had come. You could also be sure that he would work tirelessly to hammer out differences among senators and reach realistic and principled compromises.

Senator Durenberger has a reputation for taking a holistic rather than a partisan approach to legislation. He sees it from every angle, not just from opposing sides. As a member of the Committee on Environmental and Public Works, and as ranking Republican on its Subcommittee on Superfund, Recycling and Solid Waste, he has provided responsible input into major environmental bills including Superfund, the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act. His national organization, Americans for Generational Equity, seeks to ensure that the budget and tax choices made by this generation do not unfairly burden generations to come.

In his time in this body, Dave Durenberger worked and planned for the long run, not for the quick fix. His expertise, particularly in the field of health care, will be greatly missed. (The following was received during the adjournment of the Senate.)

Notice of Determination by the Select Committee on Ethics Under Rule 35, Paragraph 4, Regarding Educational Travel

Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Dr. Robert McArthur, a member of the staff of Senator Cochran, to participate in a program in Japan, sponsored by the Japanese Ministry of Foreign Affairs, from December 3-12, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Dr. McArthur in this program.

The select committee received notification under rule 35 for Dr. Robert McArthur, a member of the staff of Senator Cochran, to participate in a program in Japan, sponsored by the Japanese Ministry of Foreign Affairs, from December 3-12, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Dr. McArthur in this program.

The select committee received notification under rule 35 for Laura Hudson, a member of the staff of Senator Johnston, to participate in a program in Japan, sponsored by the Japanese Government from December 3-12, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Hudson in this program.

The select committee received notification under rule 35 for Marie Blanco, a member of the staff of Senator Inouye, to participate in a program in Japan, sponsored by the Japanese Government, from December 3-12, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Blanco in this program.

The select committee received notification under rule 35 for Thomas Moore, a member of the staff of Senator Breaux, to participate in a program in China, sponsored by the Chinese Government from December 12-21, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Moore in this program.

The select committee received notification under rule 35 for Niles Godes, a member of the staff of Senator Kasen, to participate in a program in China, sponsored by the Chinese Government from December 12-21, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Godes in this program.

The select committee received notification under rule 35 for Joel Bacon, a member of the staff of Senator Kasen, to participate in a program in China, sponsored by the Chinese Government from December 12-21, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Bacon in this program.

The select committee received notification under rule 35 for Alex Flint, a member of the staff of Senator Domenici, to participate in a program in Japan, sponsored by the Japanese Government from December 3-11, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Flint in this program.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed at this point in the RECORD.)
TRIBUTE TO SENATOR DANFORTH

Mr. JOHNSTON. Mr. President, in this body there are many, many Senators who will fight to the end for legislation they believe in, as a matter of principle, and this is admirable. There are other Senators who, confronted with a disagreement on fundamental issues will attempt to find a principled middle ground, and who will negotiate until they drop to find a way to bring the Senate together. This is also admirable. For the last 18 years, there has been one Senator who did both, who fought for the people and issues he believed in but who was able to broker agreements on thorny issues between Senators who would not normally agree. He was able to do this, in part because his training in the law and the ministry gave him a double set of negotiating tools, and in part, because his genuine good nature and penetrating grasp of basic issues made him easy to deal with. But the real reason, I think, that Jack Danforth was able to shepherd legislation like the 1991 Civil Rights Bill into law was because no Senator has ever doubted his integrity or wondered where he was coming from. He could say, like Martin Luther, “Here I stand. I can do no other.” The Senate will be, philosophically and ethically, the poorer for his leaving.

CALL OF THE ROLL

Earlier in today’s proceedings, the Vice President instructed the clerk to call the roll to ascertain the presence of Senators. The following Senators entered the Chamber and answered to their names:

[Quorum No. 1]

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Coverdale
Craig
D’Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gannett
Gorton
Graham
Gramm
Gratz
Grassley
Gregg
Grack
Hatch
Hatfield
Hehn
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerry
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pel
Pryor
Reed
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
McCain
First session of the One Hundred Fourth Congress convened. House passed congressional accountability measure.

Senate

Chamber Action

Routine Proceedings, pages S1-S427

Measures Introduced: One hundred forty-nine bills and thirty-eight resolutions were introduced, as follows: S. 1-149, S.J. Res. 1-12, S. Res. 1-25, and S. Con. Res. 1. Pages S47-52

Reports of a Committee: Pursuant to the order of the Senate of December 1, 1994, the following reports were filed:


Administration of Oath of Office: The Senators-elect were administered the oath of office by the Vice President. Pages S4-5

Measures Passed:

Notification to the President: Senate agreed to S. Res. 1, providing that a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to inform the President of the United States that a quorum of each House is assembled. Subsequently, Senators Dole and Daschle were appointed by the Vice President. Page S6

Notification to the House of Representatives: Senate agreed to S. Res. 2, informing the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

Hour of Daily Meeting: Senate agreed to S. Res. 3, fixing the hour of daily meeting of the Senate at 12 o’clock meridian, unless otherwise provided. Page S6

Election of President pro tempore: Senate agreed to S. Res. 4, electing the Honorable Strom Thurmond, of South Carolina, as President pro tempore of the Senate. Page S6

Notifying President of the Election of President pro tempore: Senate agreed to S. Res. 5, notifying the President of the United States of the election of Senator Thurmond as President pro tempore of the Senate. Page S6

Election of Secretary of the Senate: Senate agreed to S. Res. 6, electing Sheila Burke as Secretary of the Senate. Page S6

Election of Sergeant at Arms and Doorkeeper of the Senate: Senate agreed to S. Res. 7, electing Howard O. Green, Jr., as the Sergeant at Arms and Doorkeeper of the Senate. Page S6

Election of Secretary for the Majority: Senate agreed to S. Res. 8, electing Elizabeth B. Greene as the Secretary for the Majority. Page S6

Notification to the President: Senate agreed to S. Res. 9, notifying the President of the United States of the election of a Secretary of the Senate. Pages S6-7

Election of Secretary for the Minority: Senate agreed to S. Res. 10, electing C. Abbott Saffold as the Secretary for the Minority. Page S7
Notification to the House: Senate agreed to S. Res. 11, notifying the House of Representatives of the election of Senator Thurmond as President pro tempore of the Senate. Page S7

Notification to the House: Senate agreed to S. Res. 12, notifying the House of Representatives of the election of a Secretary of the Senate. Page S7

Amending Senate Rules: Senate agreed to S. Res. 13, amending Rule XXV of the Standing Rules of the Senate. Pages S7–8

Majority Committee Appointments: Senate agreed to S. Res. 15, making majority party appointments to certain Senate committees for the 104th Congress. Page S8

Minority Committee Appointments: Senate agreed to S. Res. 16, making minority party appointments to Senate committees under paragraph 2 of Rule XXV for the One Hundred and Fourth Congress.

Subsequently, the resolution was modified. Page S44

Amending Senate Rules: Senate agreed to S. Res. 17, to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate.

Subsequently, the resolution was modified. Pages S8–9, S44

Reappointment of Senate Legal Counsel: Senate agreed to S. Res. 18, relating to the reappointment of Michael Davidson as Senate Legal Counsel. Page S10

Majority Committee Appointments: Senate agreed to S. Res. 20, making majority party appointments to certain Senate committees for the 104th Congress. Page S10

Displaced Staff Member: Senate agreed to S. Res. 25, relating to section 6 of S. Res. 458 of the 98th Congress. Page S44

Amending Senate Rules: Senate agreed to S. Res. 19, to express the sense of the Senate that the Committee on Rules and Administration when it reports the committee funding resolution for 1995–96 it should reduce funding for committees by 15% from the level provided for 1993–94. Pages S10, S45

Unanimous-Consent Agreements:

Select Committee on Ethics: Senate agreed that, for the duration of the 104th Congress, the Select Committee on Ethics be authorized to meet during the session of the Senate. Page S9

Time for Rollcall Votes: Senate agreed that, for the duration of the 104th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10 minutes' duration, the warning signal be sounded at the beginning of the last 7½ minutes. Page S9

Authority to Receive Reports: Senate agreed that, during the 104th Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate. Page S9

Recognition of Leadership: Senate agreed that the majority and minority leaders may daily have up to 10 minutes on each calendar day following the prayer and disposition of the reading, or the approval of, the Journal. Page S9

House Parliamentarian Floor Privileges: Senate agreed that the Parliamentarian of the House of Representatives and his three assistants be given the privilege of the floor during the 104th Congress. Page S9

Printing of Conference Reports: Senate agreed that, notwithstanding the provisions of Rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed. Page S9

Authority for Appropriations Committee: Senate will continue consideration of the resolution on Thursday, January 5.

Measure Indefinitely Postponed:

Committee Funding: Senate indefinitely postponed further consideration of S. Res. 19, to express the sense of the Senate that the Committee on Rules and Administration when it reports the committee funding resolution for 1995–96 it should reduce funding for committees by 15% from the level provided for 1993–94. Pages S10, S45

Pending:

Harking Amendment No. 1, amend the Standing Rules of the Senate to permit cloture to be invoked by a decreasing majority vote of Senators down to a majority of all Senators duly chosen and sworn. Pages S30–44

A unanimous-consent time agreement was reached providing for further consideration of the pending resolution on Thursday, January 5, with a vote on a motion to table the amendment to occur thereon. Page S44
suspend Rule XVI, pursuant to Rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposed amendment shall be printed.

Pages S9–10

Authority for Corrections in Engrossment: Senate agreed that, for the duration of the 104th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

Pages S9–10

Authority to Receive Messages and Sign Enrolled Measures: Senate agreed that, for the duration of the 104th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate be authorized to receive messages from the President of the United States and— with the exception of House bills, joint resolutions, and concurrent resolutions— messages from the House of Representatives, that they be appropriately referred, and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

Pages S9–10

Privileges of the Floor: Senate agreed that, for the duration of the 104th Congress, Senators be allowed to leave at the desk with the Journal Clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, an that the Sergeant-at-Arms be instructed to rotate such staff members as space allows.

Pages S9–10

Referral of Treaties and Nominations: Senate agreed that for the duration of the 104th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

Pages S9–10

Appointments:

Commission on the Roles and Capabilities of the U.S. Intelligence Community: The Chair announced the following appointment made by the Republican Leader, Senator Dole, During the sine die adjournment: Pursuant to provisions of Public Law 103–359, the appointment of Senator Warner and David H. Dewhurst, of Texas, as members of the Commission on the Roles and Capabilities of the United States Intelligence Community.

Page S45

National Bankruptcy Review Commission: The Chair announced the following appointment made by the President pro tempore, Senator Byrd, during the sine die adjournment: Pursuant to provisions of Public Law 103–394, and upon the recommendation of the Republican Leader, the appointment of James I. Shepard, of California, as a member of the National Bankruptcy Review Commission.

Page S45

Commission on Protecting and Reducing Government Secrecy: The Chair announced the following appointment made by the Democratic Leader, Senator Mitchell, during the sine die adjournment: Pursuant to provisions of Public Law 103–236, the appointment of Senator Moynihan and Samuel P. Huntington, of New York, as members of the Commission on Protecting and Reducing Government Secrecy.

Page S45

John C. Stennis Center for Public Training and Development: The Chair announced the following appointment made by the Democratic Leader, Senator Mitchell, during the sine die adjournment: Pursuant to provisions of Public Law 100–458, Sec. 114(b)(1)(2), the reappointment of William Winter to a six-year term on the Board of Trustees of the John C. Stennis Center for Public Training and Development, effective Oct. 11, 1994.

Page S45

Nominations Received: Senate received the following nominations:

Robert E. Rubin, of New York, to be Secretary of the Treasury.

Robert E. Rubin, of New York, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

Ronna Lee Beck, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Linda Kay Davis, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Eric T. Washington, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Pages S45

Messages From the House:

Communications:

Petitions:

Statements on Introduced Bills:

Amendments Submitted:
Chamber Action

Bills Introduced: Eleven public bills, H.R. 1-11, and twenty resolutions, H.J. Res. 1-5, H. Con. Res. 1, and H. Res. 1-14, were introduced.

Reports Filed: The following reports were filed subsequent to the sine die adjournment of the One Hundred Third Congress:

  - Report entitled “Activities of the Committee on Education and Labor During the 103d Congress” (H. Rept. 103-872, filed on December 13, 1994);
  - Report entitled “Summary of Activities of the Committee on Standards of Official Conduct During the 103d Congress” (H. Rept. 103-873, filed on December 13, 1994);
  - Report entitled “Activities and Summary Report of the Committee on the Budget During the 103d Congress” (H. Rept. 103-874, filed on December 19, 1994);
  - Report entitled “Legislative Review Activity During the 103d Congress of the Committee on Ways and Means” (H. Rept. 103-875, filed on December 20, 1994);
  - Report entitled “Activities of the Committee on Post Office and Civil Service for the 103d Congress” (H. Rept. 103-876, filed on December 20, 1994);
  - Report entitled “Summary of Legislative Activities of the Committee on Public Works and Transportation, One Hundred Third Congress” (H. Rept. 103-877, filed on December 22, 1994);
  - Report entitled “Activities Report of the Committee on Veterans’ Affairs, House of Representatives, 103d Congress” (H. Rept. 103-878, filed on December 23, 1994);
  - Report entitled “Activities of the Permanent Select Committee on Intelligence During the 103d Congress” (H. Rept. 103-879, filed on December 23, 1994);
  - Report entitled “Legislative Review Activities of the Committee on Foreign Affairs During the 103d Congress” (H. Rept. 103-880, filed on December 29, 1994);
  - Report entitled “Activities of the Committee on Armed Services for the 103d Congress” (H. Rept. 103-881, filed on December 29, 1994);
  - Report entitled “Activity of the Committee on Energy and Commerce for the 103d Congress” (H. Rept. 103-882, filed on January 2);
  - Report entitled “Activities of the Committee on the Judiciary During the 103d Congress” (H. Rept. 103-883, filed on January 2);
  - Report entitled “Activities of the House Committee on Government Operations During the 103d Congress” (H. Rept. 103-884, filed on January 2);
  - Report entitled “Activities of the Committee on Small Business During the 103d Congress” (H. Rept. 103-885, filed on January 2);
  - Report entitled “Activities of the Committee on Agriculture During the 103d Congress” (H. Rept. 103-886, filed on January 2);
  - Report entitled “Final Report on the Activities of the Merchant Marine and Fisheries Committee, 103d Congress” (H. Rept. 103-887, filed on January 2);
  - Report entitled “Summary of Activities of the Committee on Science, Space, and Technology for the 103d Congress” (H. Rept. 103-888, filed on January 2); and
  - Report entitled “Report on the Activities of the Committee on Appropriations During the 103d Congress” (H. Rept. 103-889, filed on January 2).

Election of Speaker: By a yea-and-nay vote of 228 yeas to 202 nays, with 4 voting “present”, Roll No. 2, Newt Gingrich of the State of Georgia was elected Speaker of the House of Representatives over Richard A. Gephardt of the State of Missouri. Representatives Thomas of California, Fazio, Roukema, and Schroeder acted as tellers. The Speaker was escorted to the Chair by Representatives Gephardt, Armey, Delay, Bonior, Boehner, Fazio, Collins of Georgia, Lewis of Georgia, Bishop, Deal, Kingston, Linder, McKinney, Barr, Chambliss, and Norwood.
Representative Dingell administered the oath of office to the Speaker, who subsequently administered the oath to Members-elect present en bloc. Page H8

Party Leaders: It was announced that Representatives Armey and Gephardt had been elected majority and minority leaders, respectively, and that Representatives Delay and Bonior had been appointed majority and minority whips, respectively. Pages H8–9

House Officers: House agreed to H. Res. 1, electing the following officers of the House of Representatives: Robin H. Carle, Clerk; Wilson S. Livingood, Sergeant at Arms; Scott M. Faulkner, Chief Administrative Officer; and Reverend James David Ford, Chaplain.

On division of the question, rejected an amendment that sought to name certain minority employees to the positions of Clerk, Sergeant at Arms, and Chief Administrative Officer. Page H9

Notify Senate: House agreed to H. Res. 2, to inform the Senate that a quorum of the House had assembled and had elected Newt Gingrich, a Representative from the State of Georgia, Speaker; and Robin H. Carle, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives.

Page H9

Notify President: House agreed to H. Res. 3, authorizing the Speaker to appoint a committee of two members to join with a like committee of the Senate to notify the President that a quorum of each House has assembled and that the Congress is ready to receive any communication that he may be pleased to make. Subsequently, the Speaker appointed Representatives Armey and Gephardt to the committee.

Page H9

Inform President: House agreed to H. Res. 4, authorizing the Clerk of the House to inform the President that the House of Representatives had elected Newt Gingrich, a Representative from the State of Georgia, Speaker; and Robin H. Carle, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives.

Page H9

House Rules: House agreed to H. Res. 6, adopting the Rules of the House of Representatives for the One Hundred Fourth Congress.

Pages H23–90

By a yea-and-nay vote of 416 yeas to 12 nays, Roll No. 6, the House agreed to section 101 of the resolution regarding committees, subcommittees, and staff reforms;

Pages H45–49

By a yea-and-nay vote of 421 yeas to 6 nays, Roll No. 7, the House agreed to section 102 of the resolution regarding truth-in-budgeting baseline reform;

Pages H49–52

By a yea-and-nay vote of 355 yeas to 74 nays, with 1 voting “present”, Roll No. 8, the House agreed to section 103 of the resolution regarding term limits for the Speaker, committee and subcommittee chairmen;

Pages H52–56

By a yea-and-nay vote of 418 yeas to 13 nays, Roll No. 9, the House agreed to section 104 of the resolution regarding a ban on proxy votes in any committee or subcommittee;

Pages H56–59

By a yea-and-nay vote of 431 yeas, Roll No. 10, the House agreed to section 105 of the resolution regarding sunshine rules concerning committee meetings;

Pages H59–63

By a yea-and-nay vote of 279 yeas to 152 nays, Roll No. 11, the House agreed to section 106 of the resolution regarding limitations on tax increases;

Pages H63–72

By a yea-and-nay vote of 430 yeas to 1 nay, Roll No. 12, the House agreed to section 107 of the resolution regarding a comprehensive House audit; and

Pages H72–77

By a yea-and-nay vote of 249 yeas to 178 nays, Roll No. 13, the House agreed to section 108 of the resolution providing that the Majority Leader and Minority Leader, or their designees, be authorized to call up for consideration on January 4, 1995 (or thereafter) H.R. 1, the “Congressional Accountability Act of 1995”, subject to one hour of debate, equally divided between the Majority Leader and Minority Leader, or their designees, and subject to one motion to recommit by the minority, which could include amendments; and

Pages H77–81

House agreed to title II of the resolution which provided for House administrative reforms; changes in the committee system; oversight reform; Member assignment limit; multiple bill referral reform; accuracy of committee transcripts; elimination of “rolling quorums”; prohibition on committees sitting during House consideration of amendments; accountability for committee votes; affirmation of minority’s rights on motions to recommit; waiver policy for special rules; prohibition on delegate voting in Committee of the Whole; accuracy of the CONGRESSIONAL RECORD; automatic rollcall votes; appropriations reforms; ban on commemoratives; numerical designation of amendments submitted for the CONGRESSIONAL RECORD; requirement for the Pledge of Allegiance as the third order of business each day; publication of signators of discharge petitions; protection of classified materials; structure of the Permanent Select Committee on Intelligence; abolition of legislative service organizations; and miscellaneous provisions and clerical corrections.

Rejected the Bonior motion to commit title II to a select committee composed of the Majority Leader and the Minority Leader with instructions to report
back the same to the House forthwith containing an amendment that changes from three to four years the Speaker term limits; contains language regarding majority-minority committee staff ratios on committees; language regarding the striking of waivers from budget resolutions; language regarding a ban on gifts from lobbyists; language regarding certain limitations on income from royalties received by any Members, officer, or employee of the House; and language amending existing rules creating the position of Director of Non-Legislative and Financial Services (rejected by a recorded vote of 201 ayes to 227 noes, Roll No. 14).

H. Res. 5, the rule which provided for the consideration of the resolution, was agreed to earlier by a yea-and-nay vote of 251 yeas to 181 nays, Roll No. 5. Agreed to order the previous question on the resolution by a yea-and-nay vote of 232 yeas to 199 nays, Roll No. 3.

Earlier, objection was heard to a unanimous consent request to consider the resolution. Rejected the Bonior motion to commit H. Res. 5 to the Committee on Rules with instructions (rejected by a yea-and-nay vote of 196 yeas to 235 nays, Roll No. 4).

Congressional Accountability Act: By a yea-and-nay vote of 429 yeas, Roll No. 15, the House passed H.R. 1, to make certain laws applicable to the legislative branch of the Federal Government.

Legislative Program: The Majority Leader announced the legislative program for the week of January 9. Agreed that the House will adjourn from Thursday to Monday; and adjourn from Monday, January 9 until Wednesday, January 11; and adjourn from Wednesday, January 11, until Friday, January 13.

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of Wednesday, January 11.

Minority Employees: House agreed to H. Res. 7, providing for the designation of certain minority employees.

Meeting Hour 104th Congress: House agreed to H. Res. 8, fixing the daily hour of meeting for the 104th Congress.

Steering and Policy Committees Funding: House agreed to H. Res. 9, providing amounts for the Republican Steering Committee and the Democratic Policy Committee.

Employee Position Transfers: House agreed to H. Res. 10, providing for the transfer of two employee positions.

Sacrifice and Courage of Warrant Officers Hilemon and Hall: House agreed to H. Con. Res. 1, recognizing the sacrifice and courage of Army Warrant Officers David Hilemon and Bobby W. Hall II, whose helicopter was shot down over North Korea on December 17, 1994.

Committee Elections: House agreed to the following resolutions to designate committee memberships:

- H. Res. 11, designating majority membership on certain standing committees of the House;
- H. Res. 12, designating minority membership on certain standing committees of the House; and
- H. Res. 13, electing Representative Bernard Sanders to standing committees of the House.

House of Representatives Page Board: Pursuant to section 127 of Public Law 97-377, the Speaker appointed as members of the House of Representatives Page Board the following Members: Representatives Emerson and Kolbe.

House Office Building Commission: Pursuant to the provisions of 40 United States Code, sections 175 and 176, the Speaker appointed Representative Armey as a member of the House Office Building Commission, to serve with himself and Representative Gephardt.

Select Committee on Intelligence: Pursuant to clause 1 of rule 48 and clause 6(f) of rule 10, the Speaker appoints as members of the Permanent Select Committee on Intelligence the following Members: Representatives Combest, Chairman, Dornan, Young of Florida, Hansen, Lewis of California, Goss, Shuster, McCollum, Castle, Dicks, Richardson, Dixon, Torricelli, Coleman, Pelosi, and Laughlin.

Morning Hour Debate: It was made in order that the House may convene 90 minutes earlier than the time otherwise established by order of the House on Mondays and Tuesday of each week solely for the purpose of conducting “morning hour” debates under certain conditions.

Clerk’s Authorization: Read a letter from the Clerk of the House wherein, under clause 4 of Rule III of the Rules of the House of Representatives, she designates Ms. Linda Nave, Deputy Clerk, to sign any and all papers and do all other acts under the name of the Clerk of the House which she would be authorized to do by virtue of such designation, except as provided by statute, in case of the Clerk’s temporary absence or disability.

Senate Messages: Message received from the Senate today appears on page H23.

Adjournment: Met at noon and adjourned 2:24 a.m. on Thursday, January 5.

Committee Meetings

No committee meetings were held.

CONGRESSIONAL PROGRAM AHEAD

Week of January 5 through 7, 1995

Senate Chamber

On Thursday, Senate will resume consideration of S. Res. 14, amending paragraph 2 of Rule XXV of the Standing Rules of the Senate, with a vote on the motion to table Harkin Amendment No. 1, relating to the imposition of cloture, to occur at 11:30 a.m.

Senate may also consider S. 2, to make certain laws applicable to the legislative branch of the Federal Government.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Banking, Housing, and Urban Affairs: January 5 and 6, to hold hearings to examine issues involving municipal, corporate and individual investors in derivative products and the use of highly leveraged investment strategies, 10 a.m., SD-106.

Committee on the Budget: January 5, to hold joint hearings with the Committee on Governmental Affairs on S. 1, to curb the practice of imposing unfunded Federal mandates on States and local governments, and to strengthen the partnership between the Federal Government and State, local and tribal governments, 9:30 a.m., SH-216.

Committee on Governmental Affairs: January 5, to hold joint hearings with the Committee on the Budget on S. 1, to curb the practice of imposing unfunded Federal mandates on States and local governments, and to strengthen the partnership between the Federal Government and State, local and tribal governments, 9:30 a.m., SH-216.

Committee on the Judiciary: January 5, to hold hearings on a proposed constitutional amendment to balance the Federal budget, 10 a.m., SD-226.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see page E30 in today’s RECORD.

House Chamber

The program will be announced.

House Committees

Committee on the Budget, January 6, to hold an organizational meeting, 10 a.m., 210 Cannon.

Committee on Economic and Educational Opportunities, January 5, to hold an organizational meeting, 9:30 a.m., 2175 Rayburn.

Committee on the Judiciary, January 5, to hold an organizational meeting, 11 a.m., 2141 Rayburn.

Committee on Rules, January 5, to hold an organizational meeting, 1 p.m., H-313 Capitol.

Committee on Science, January 5, to hold an organizational meeting, 1 p.m., 2318 Rayburn.

January 6, hearing on “Is Today’s Science Policy Preparing Us for the Future,” 9:30 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, January 5, to hold an organizational meeting, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, January 5, to hold an organizational meeting, 11 a.m., and to hold a hearing on the Contract With America, 1 p.m., 1100 Longworth.

Joint Meetings

Joint Economic Committee January 6, to hold hearings on the employment-unemployment situation for December, 9:30 a.m., SD-538.
Next Meeting of the SENATE
10 a.m., Thursday, January 5

Senate Chamber
Program for Thursday: At 10:15 a.m., Senate will resume consideration of S. Res. 14, amending paragraph 2 of Rule XXV, with a vote on the motion to table Harkin Amendment No. 1, relating to the imposition of cloture, to occur at 11:30 a.m.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Thursday, January 5

House Chamber
Program for Thursday: No legislative business is scheduled.