

"(1) That the State of Oregon hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all other powers not otherwise enumerated and granted to the Federal Government by the United States Constitution.

"(2) That the Federal Government, as our agent, is hereby instructed to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated power.

"(3) That a copy of this resolution shall be sent to the President of the United States, the Speaker of the House of Representatives, the President of the Senate of the United States and each house of each state's legislature of the United States of America."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, with amendments in the nature of a substitute:

S. 343. A bill to reform the regulatory process, and for other purposes (Rept. No. 104-89).

By Mr. ROTH, from the Committee on Governmental Affairs and by Mr. HATCH, from the Committee on the Judiciary, jointly, with amendments in the nature of a substitute:

S. 343. A bill to reform the regulatory process, and for other purposes (Rept. No. 104-89) (Rept. No. 104-90).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 267. A bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes (Rept. No. 104-91).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 867. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift tax in order to preserve American family enterprises, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 868. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 869. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel DRAGONESSA, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 870. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

S. 871. A bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 872. A bill to provide for the establishment of a modernized and simplified health information network for Medicare and Medicaid, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 873. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. KOHL):

S. 874. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRESSLER:

S. 875. A bill to amend section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota; to the Committee on Environment and Public Works.

By Mr. EXON (for himself and Mr. KERREY):

S. 876. A bill to provide that any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, shall not be considered funds available to such agency for purposes of making certain Impact Aid determinations; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON:

S. 877. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself, Mr. LOTT, Mr. WARNER, Mr. MCCONNELL, Mr. SANTORUM, Mr. ABRAHAM, Mr. D'AMATO, Mr. BOND, Mr. PRESSLER, Mr. DEWINE, Mr. KYL, Mrs. KASSEBAUM, and Mrs. HUTCHISON):

S. 878. A bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America Combined Benefit Fund by certain surplus amounts in the Fund, and for other purposes; to the Committee on Finance.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 879. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes;

to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE:

S.J. Res. 35. A joint resolution prohibiting funds for diplomatic relations with Vietnam at the ambassadorial level unless the President certifies to Congress that Vietnam is making a good faith effort to resolve cases involving United States servicemen who remain unaccounted for from the Vietnam War, and for other purposes; to the Committee on Foreign Relations.

By Mr. ASHCROFT (for himself and Mr. BROWN):

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time United States Senators and Representatives may serve; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 867. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift tax in order to preserve American family enterprises, and for other purposes; to the Committee on Finance.

THE NATIONAL FAMILY ENTERPRISE PRESERVATION ACT OF 1995

● Mr. COCHRAN. Mr. President, today I am introducing the National Family Enterprise Preservation Act of 1995 which will provide estate tax relief to many of our Nation's family owned farms and businesses.

Our current tax laws are forcing many inheritors of family farms and businesses to sell the enterprise in order to pay estate taxes. A family farm or business is not only a productive component of our economy, it is a distinctive part of our American economic system and the personal dream of millions of Americans.

But all this is being threatened by high taxes that are imposed by government when the owner dies.

Small businesses are being forced to merge into large corporations because marketable stock can be acquired tax free and many estate tax problems can be avoided. In 1942, the estate tax affected only 1 estate out of 60. Today, this number has increased to 1 out of 20.

Another consideration is that inflation has pushed the value of many family farms and businesses into the range of estate tax liability. The result has been that heirs of these enterprises often sell their business to pay estate taxes.

Family owned farms and businesses are a vital component of our economy and society and should be preserved. They give families a sense of freedom, accomplishment, and pride in ownership. This is the essence of free enterprise.

Mr. Chairman, earlier this year I had the opportunity to visit with a tree farmer from my State who was recognized this year by the Mississippi Forestry Association as "Forester of the Year." His name is Chester Thigpen, and he is truly a remarkable man.

Chester Thigpen and others like him represent the taxpayers for whom I am introducing this legislation today.

Mr. Thigpen and his wife, Rosett, live in Montrose, MS. When he was a child, he dreamed of owning land. He first brought a small parcel of land in 1940, continued to save and slowly added acreage to his farm. He worked hard to improve his land and that land allowed him to provide for his family and made it possible to put his five children through college.

This land represents a tremendous amount of pride and hard work for Thigpens. They always thought they would be able to leave a legacy for their children as a reward for their hard work and as a symbol of their family's success.

But there is a big problem. The Thigpen's land over the last 50 years has increased considerably in value. The estate tax burden is going to make it nearly impossible for their children to keep the farm when their parents die.

Mr. and Mrs Thigpen and other hard working Americans should not have to sacrifice their lifelong dreams because of unnecessary tax burdens. Their children should have the same opportunity their parents have had, to use their property to be productive citizens.

The legislation I am introducing will increase from \$600,000 to \$1 million the value of property that may pass free of Federal estate and gift taxes. In addition, the current annual gift tax exclusion of \$10,000 would be increased to \$20,000 in the case of gifts to qualified family members of family enterprise property. This legislation will also change special use valuation. Currently, special use valuation cannot reduce the gross estate by more than \$750,000. This amount would be increased to \$1 million. And finally, this bill will make changes in the family enterprise interest on estates.

Mr. Chairman, I submit an editorial from the March 3, 1995 issue of the Washington Times and a copy of Mr. Thigpen's remarks to the U.S. House Committee on Ways and Means, which I ask a unanimous consent be printed in the RECORD, along with a copy of the bill.

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

S. 867

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 "National Family Enterprise Preservation Act of 1995".

SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDITS FOR FAMILY ENTERPRISES.

(a) ESTATE TAX.—Section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, by inserting after subsection (a) the following new subsection:

"(b) ADDITIONAL CREDIT FOR FAMILY ENTERPRISES.—The amount of the credit allow-

able under subsection (a) shall be increased by an amount equal to the value of any family enterprise property included in the decedent's gross estate under section 2040A(a), to the extent such value does not exceed \$121,800."

(b) GIFT TAX.—Section 2505 of the Internal Revenue Code of 1986 (relating to unified credit against gift tax) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) ADDITIONAL CREDIT FOR FAMILY ENTERPRISES.—The amount of the credit allowable under subsection (a) for each calendar year shall be increased by an amount equal to—

"(1) the value of gifts of family enterprise property (as defined in section 2040A(b)(1)), to the extent such value does not exceed \$121,800, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this subsection for all preceding calendar periods."

(c) EFFECTIVE DATES.—

(1) ESTATE TAX CREDIT.—The amendments made by subsection (a) shall apply to the estates of decedents dying after December 31, 1995.

(2) GIFT TAX CREDIT.—The amendments made by subsection (b) shall apply to gifts made after December 31, 1995.

SEC. 3. INCREASE IN ANNUAL GIFT TAX EXCLUSION.

(a) IN GENERAL.—Section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) ADDITIONAL EXCLUSIONS FROM GIFTS.—The amount of the exclusion allowable under subsection (b) during a calendar year shall be increased by an amount equal to the value of gifts of family enterprise property (as defined in section 2040A(b)(1)) made during such year, to the extent such value does not exceed \$10,000."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1995.

SEC. 4. FAMILY ENTERPRISE PROPERTY.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to gross estate) is amended by inserting after section 2040 the following new section:

"SEC. 2040A. FAMILY ENTERPRISE PROPERTY.

"(a) GENERAL RULE.—The value included in the decedent's gross estate with respect to family enterprise property by reason of this section shall be—

"(1) the value of such property, reduced by

"(2) the lesser of—

"(A) 50 percent of the value of such property, or

"(B) \$1,000,000.

"(b) FAMILY ENTERPRISE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term "family enterprise property" means any interest in real or personal property which is devoted to use as a farm or used for farming purposes (within the meaning of paragraphs (4) and (5) of section 2032A(e)) or is used in any other trade or business, if at least 80 percent of the ownership interest in such farm or other trade or business is held—

"(A) by 5 or fewer individuals, or

"(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2)).

"(2) LIMITED PARTNERSHIP INTERESTS EXCLUDED.—An interest in a limited partnership (other than a limited partnership composed solely of individuals described in para-

graph (1)(B)) shall in no event be treated as family enterprise property.

"(c) TAX TREATMENT OF DISPOSITIONS AND FAILURE TO USE FOR QUALIFYING USE.—

"(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—With respect to family enterprise property inherited from the decedent, if within 10 years after the decedent's death and before the death of any individual described in subsection (b)(1)—

"(A) such individual disposes of any interest in such property (other than by a disposition to a member of the individual's family), or

"(B) such individual or a member of the individual's family ceases to participate in the active management of such property, then there is hereby imposed an additional estate tax.

"(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1) with respect to any interest in family enterprise property shall be the amount equal to the excess of the estate tax liability attributable to such interest (determined without regard to subsection (a)) over the estate tax liability, reduced by 5 percent for each year following the date of the decedent's death in which the individual described in subsection (b)(1) or a member of the individual's family participated in the active management of such family enterprise property.

"(3) ACTIVE MANAGEMENT.—For purposes of this subsection, the term "active management" means the making of the management decisions of a business other than the daily operating decisions.

"(d) ADDITIONAL RULES.—For purposes of this section, rules similar to the rules under paragraphs (3), (4), and (5) of section 2032A(c), paragraphs (7), (8), (9), (10), (11), and (12) of section 2032(e), and subsections (f), (g), (h), and (i) of section 2032A shall apply."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 2040 the following new item:

"Sec. 2040A. Family enterprise property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1995.

SEC. 5. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(a) IN GENERAL.—Section 2032A(a)(2) of the Internal Revenue Code of 1986 (relating to limitation on aggregate reduction in fair market value) is amended by striking "\$750,000" and inserting "\$1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1995.

STATEMENT OF MR. CHESTER THIGPEN BEFORE THE COMMITTEE ON WAYS AND MEANS, FEBRUARY 1, 1995

My name is Chester Thigpen. My wife Rosett and I are Tree Farmers from Montrose, Mississippi.

Mr. Chairman, I appreciate the opportunity to appear before this Committee. You are debating an issue that is very important to more than 7 million people who own most of the nation's productive timberland. Most of us have been at it for a long time. Professor Larry Doolittle of Mississippi State University published a paper in 1992 that suggested half the Tree Farmers in the Mid-South were 62 years old or over. This pattern holds true in other parts of the country as well. So it should come as no surprise to the Committee that, when Tree Farmers gather, one of the things we discuss is estate taxes.

Estate taxes matter not just to lawyers, doctors and businessmen, but to people like Rosett and me. We were both born on land that is now part of our Tree Farm. I can remember plowing behind a mule for my uncle who owned it before me. My dream then was to own land. I bought a little bit in 1940 and inherited some from my family's estate in 1946, and then bought some more. Back when I started, the estate tax applied to only one estate in 60. Today it applies to one in 20—including mine. I wonder if I would be able to achieve my dream if I were starting out today.

Mr. Chairman, you have heard many witnesses talk about the technical details of estate tax reform. They know far more about it than I do. With your permission, I'd like to take a few minutes to talk about what I do know: what estate tax reform will mean in places like Montrose, Mississippi and to Tree Farmers like me and Rosette.

We first got started in forestry in 1960. Much of our land was old cotton and row crop fields, so early on I spent 90 percent of my time trying to keep it from washing away. We developed a management plan and started growing trees. Today, we manage our property for timber, wildlife habitat, water quality and recreation. We have built ponds for erosion control and for wildlife. Deer and turkey have come back, so we invite our neighbors to hunt on our land.

It took us half a century, but Rosett and I have managed to turn our land into a working Tree Farm that has been a source of pride and income for my entire family.

Our Tree Farm made it possible to put our five children through college. It made it possible for Rosette and me to share our love of the outdoors and our commitment to good forestry with our neighbors. And finally, it made it possible for us to leave a legacy that makes me very proud: beautiful forests and ponds that can live on for many, many years after my wife and I pass on. We wanted to leave the land in better condition than when we first started working it. And we will.

We also want to leave the Tree Farm in our family. But no matter how hard I work, that depends on you.

Right now, people tell me my Tree Farm could be worth more than a million dollars. All that value is tied up in land or trees. We're not rich people. My son and I do almost all the work on our land ourselves. So, under current law, my children might have to break up the Tree Farm or sell off timber to pay the estate taxes. I am here today to endorse a proposal called the National Family Enterprise Preservation Act which would totally exempt over 98 percent of all family enterprises, not just Tree Farms, from the Federal estate tax. A copy is attached to my written testimony.

Giving up the Tree Farm we worked fifty years to create would hurt me and my family. I don't think it would be good for the public either. If the Tree Farm had to be sold or the timber cut before its time, what would happen to the erosion control programs we put in place, or the wildlife habitat? Who would make certain that the lands stayed open for our neighbors to visit and enjoy? I know my children would. And I hope their children will have an opportunity after them.

I think too often people focus on just the costs of estate tax reform and not the benefits. In forestry, the benefits will be substantial. I mentioned earlier that most of the 7 million landowners in this country are close to retirement age or, like me, way past it. Without estate tax reform, many of their properties will be broken up into smaller tracks or harvested prematurely. Some may no longer be economical to operate as Tree Farms and will perhaps be converted to

other uses or back into marginal agriculture. Other properties may become too small or generate too little cash flow to support the kind of multiple use management we practice on our property. Healthy, growing forests with abundant wildlife provide benefits to everybody. Without estate tax reform, it will become harder and harder for people like me to remain excellent stewards of our family-owned forests.

Mr. Chairman, a few months ago, Rosett and I were named Mississippi's Outstanding Tree Farmers of the Year. It was a great honor to be selected from among the thousands of excellent Tree Farmers in Mississippi. I'm told one reason we were recognized was because Rosett and I have been speaking out on behalf of good forestry for almost four decades.

That's why I made this trip to Washington: to remind the Committee that estate tax reform is important to preserve family enterprises like ours. It is also important for good forestry. We just planted some trees on our property a few months ago. I hope my grandchildren and great-grandchildren will be able to watch those trees grow on the Thigpen Tree Farm—and I know millions of forest landowners feel the same way about their own Tree Farms. We applaud estate tax reforms that will make this possible.

Thank you.

[From the Washington Times, Mar. 13, 1995]

DEATH AND TAXES

There are two certainties in life of which Americans are all too well aware: death and taxes. Less well known is the fact that taxes don't stop with death.

Consider the case of Mississippi resident Chester Thigpen, a man who has painstakingly built a reputation for overachievement during his 83 years. The grandson of slaves, he was born on a farm when cotton was king and grew up dreaming that one day he would own land of his own. He bought a little land in 1940 and slowly added to his holdings, raising trees and children along the way with his wife Rosett.

Today he has 850 acres of farm land to his name, five children with college educations financed from timber harvests there and a roomful of honors for his stewardship of the land and his outreach work on behalf of forestry. Already he is in Mississippi's Agriculture and Forestry Museum's Hall of Fame and this year was named the state's Outstanding Tree Farmer. Such achievements may not mean much in a city like Washington, where productivity is something one measures in red ink. But lawmakers might want to consider where they would be without tree byproducts the next time they try to introduce a bill or send a memo.

There is, however, one thing that the Thigpens don't have, and that is the peace of mind that comes with knowing they can pass on their version of the American dream to their children. The federal estate tax, you see, begins taking a progressively larger bite out of any estate worth more than \$600,000. Mr. Thigpen's advisers have warned him that his estate may top that figure by as much as \$1 million. The projected estate tax bill? Some \$345,000.

That's a problem because Mr. Thigpen is effectively "tree poor." Although he is comfortably well off on paper, his wealth is all tied up in the trees. And unless the Thigpens or, in the event of their deaths, their children, clear cut a swath through the farm, they won't have the money to pay off the feds. The only alternative is to sell a lot of the land now, which would leave Mr. Thigpen with substantial capital gains taxes to pay. Or his children could sell it upon their parents' deaths to raise the money, thereby breaking up the family farm.

The latter is particularly painful to Mr. Thigpen, whose holdings include land inherited from his family. "Giving up the tree farm we worked 50 years to create would hurt me and my family," he told members of the House Ways and Means Committee last month. "If the tree farm had to be sold or the timber cut before its time, what would happen to the erosion control programs we put in place, or the wildlife habitat? Who would make certain that the lands stayed open for our neighbors to visit and enjoy? I know my children would. And I hope their children will have an opportunity after them."

Once upon a time, or course, families like the Thigpens didn't have to worry about the likes of estate taxes. They were designed to hit the very wealthiest Americans. But as inflation moved Americans into one higher bracket after another, suddenly they found they too were "rich." Where only one in 60 families paid estate taxes, now one in 20 do.

This week the committee is scheduled to begin marking up tax legislation—including estate-tax changes—as part of the Contract with America. The question is whether lawmakers can see, well, the forest for the trees.●

By Mr. STEVENS (by request):

S. 868. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1995

Mr. STEVENS. Mr. President, the administration has sent to my office a bill to provide additional authority for leave transfer to Federal employees who are adversely affected by disasters or emergencies. I think it is appropriate to raise this at this time, and because it has come in just before we are going into recess, I want to introduce it and take this time to explain it, with the hope that we will be able to move it very rapidly when we get back.

This is a bill that would be called the Federal Employees Emergency Leave Transfer Act of 1995. In the event of a major disaster or emergency, the President would have the authority to direct the Office of Personnel Management to create a special leave transfer program for Federal employees affected by the disaster emergency.

Under current law, Federal employees may donate annual leave to other employees who face medical emergencies. Current law is limited to medical emergencies and requires recipients to exhaust their own leave before using donated leave.

Under this proposal I will introduce today, the emergency leave transfer program would extend to employees who do not face a medical emergency but need extra leave because of other effects of disasters or emergencies, such as a flood that has destroyed an employee's home or an earthquake has affected their lifestyle.

It would allow an agency-approved recipient to use donated leave without having to first exhaust their own leave. It would allow employees in any executive agency to donate leave for transfer

to affected employees in the same or in other agencies. It would allow current agency leave banks to donate leave to emergency leave transfer programs. OPM would have the authority to establish appropriate operating requirements for the emergency leave transfer program, including program limits on the amount of leave that could be donated and used under this program.

I want to emphasize that this leave transfer will permit employees to help other employees at no cost to the taxpayer, other than incidental administrative costs, because there is no additional leave provided under this program to any employee beyond that which is already credited to an employee which has been earned by that employee.

I think the aftermath of the Oklahoma disaster showed an overwhelming interest in employees being able to do something to assist fellow employees who are affected by a major disaster or emergency.

I commend OPM for thinking of this concept, and I am pleased to introduce at their request this bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies.

I thank my good friend from Utah for permitting me to take this time at this time.

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

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

S. 868

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 "Federal Employees Emergency Leave Transfer Act of 1995".

SEC. 2. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

"Subchapter VI—Leave Transfer in Disasters and Emergencies

"§6391. Authority for leave transfer program in disasters and emergencies

"(a) For the purpose of this section—
 "(1) 'employee' means an employee as defined in section 6331(1); and

"(2) 'agency' means an Executive agency.

"(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

"(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

"(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

"(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

"(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section."

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"Subchapter VI—Leave Transfer in Disasters and Emergencies

"6391. Authority for leave transfer program in disasters and emergencies."

SEC. 3. The amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

SUMMARY OF THE FEDERAL EMPLOYEES
 EMERGENCY LEAVE TRANSFER ACT OF 1995

In the event of a major disaster or emergency, the President would have authority to direct the Office of Personnel Management (OPM) to create a special leave transfer program for Federal employees affected by the disaster or emergency.

Under current law, Federal employees may donate annual leave to other employees who face medical emergencies.

Current law is limited to medical emergencies, and requires recipients to exhaust their own leave before using donated leave.

Under this proposal, emergency leave transfer program—

Would extend to employees who do not face a medical emergency, but need extra leave because of other effects of disaster or emergency—e.g., flood destroyed employee's home;

Would allow agency-approved recipients to use donated leave without having to first exhaust their own leave;

Would allow employees in any Executive agency to donate leave for transfer to affected employees in the same or other agency; and

Would allow current agency leave banks to donate leave to emergency leave transfer program.

OPM would have authority to establish appropriate operating requirements for the emergency leave transfer program, including appropriate limits on amounts of leave that may be donated and used under program.

Leave transfer permits employees to help other employees, at no cost to the taxpayer (other than incidental administrative costs), since no additional leave is provided beyond what would already be credited.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 870. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERSTATE WASTE ACT AMENDMENT ACT
 OF 1995

• Mr. HATFIELD. Mr. President, during the Senate consideration of the interstate waste bill, I reminded my colleagues that 10 States have achieved great success in dealing with solid waste by implementing some form of

beverage container deposit system. My home State of Oregon, for example, has had remarkable success with its own bottle bill for over 20 years. Consequently, I offered the National Beverage Container Reuse and Recycling Act as an amendment to that legislation.

My amendment was ultimately withdrawn, but not before the chairman of the Environment and Public Works Committee, Senator CHAFEE, agreed to hold a hearing in his committee on this issue during the 104th Congress. I am enthused by this opportunity for the bottle bill and am formally introducing this legislation today. Although it will be referred to the Commerce Committee because of precedent, the Environment Committee is also an appropriate forum to consider reducing our solid waste stream. The National Beverage Container Reuse and Recycling Act of 1995 is identical to the bill I introduced in the 103d Congress.

As someone who grew up during the Great Depression, I am constantly reminded of the throw-away ethic that has emerged so prominently in this country. In this regard, Oregon's deposit system serves as a much greater role than merely cleaning up littered highways, saving energy and resources or reducing the waste following into our teeming landfills. The bottle bill acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country out of its various crises. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

This legislation will accomplish national objectives to meet our Nation's massive waste management difficulties. A national deposit system will reduce solid waste and litter, save natural resources and energy, and create a much needed partnership between consumers, industry, and local governments for the betterment of our communities.

So often, States serve as laboratories for what later emerges as successful national policies. The State of Oregon and other bottle bill States have proven that deposit programs are an effective method to deal with beverage containers, which make up the single largest component of waste systems. According to the General Accounting Office deposit law States, which account for only 18 percent of the population, recycle 65 percent of all glass and 98 percent of all PET plastic nationwide. That means 82 percent of the population is recycling less than 25 percent of our nation's beverage container waste.

As many of my colleagues know, I have a 20 year history on this issue and have been greatly enthused by developments in recent years in promoting the establishment of a national bottle bill. The commitment I received earlier this year for a hearing in the Environment

and Public Works Committee is greatly encouraging. Although this bill has historically been referred to the Senate Commerce Committee, in recent years significant actions on this measure have come in the Senate Environment and Public Works Committee and the Energy and Natural Resources Committee.

Senator JEFFORDS offered the bill as an amendment to the Resource Conservation and Recovery Act [RCRA] in the Environment and Public Works Committee during the 102d Congress. Even though this attempt failed by a vote of 6 to 10 it was a monumental step forward. Additionally, during the same Congress a hearing was held in the Senate Energy and Natural Resources Committee on the energy conservation implications of beverage container recycling as outlined in that session's bottle bill, S. 2335.

I regret that I frequently have come to the Senate floor to force the Senate to take action on this matter, but that seems to be the only effective procedure for moving forward on this bill. For example, during the 1992 Presidential campaign candidate Bill Clinton declared his support for a national bottle bill. However, once he took office he and the Congress were surprisingly silent on the issue. Consequently, I was forced to offer the Beverage Container Reuse and Recycling Act as an amendment on the Senate floor.

Mr. President, It is widely acknowledged that recycling is the wave of the future and this legislation will facilitate the recycling of beverage containers. I firmly believe the time has come for Congress to follow the wise lead of these States and encourage deposit systems on a national level. I strongly urge my colleagues to fully examine the benefits of a national beverage container deposit system and to support this bill.

I ask unanimous consent that several letters of support for the bottle bill amendment to the Interstate Waste bill be included in the RECORD.

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

CONTAINER RECYCLING INSTITUTE,
Washington, DC, May 12, 1995.

Senator MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD, The Container Recycling Institute salutes you for your unyielding support for a national deposit system for the collection of used beverage containers. With return rates of over 85 percent, the ten states which require deposits on beverage containers are doing the "lion's share" of the nation's recycling. It is the most effective recycling and litter reduction system on the books today. Residents of bottle bill states enjoy streets, beaches, parks and playgrounds that are virtually free of beverage container litter.

One-way beverage containers are the epitome of the throw-away society. Every year, over 30 billion beverage containers are either burned or landfilled in the United States. This senseless waste represents more than unwisely used landfill space, but also a squandering of the world's natural resources.

A recent draft study of deposit laws by the Tellus Institute found that a national bottle bill would save \$1.60 cents per person per year in avoided manufacturing emissions from beverage container production. The same study found that we would save \$2.78 person per year from avoided litter pick up costs.

Deposit laws shift a major portion of the burden of recycling and litter pick up from state and local governments onto those who produce, sell and consume the product. In other words, the "polluter pays". For too long, the general population has been forced to pay for the social consequences of throw-away packaging. The unclaimed deposits, estimated to be about \$1.7 billion per year, would be used by the states to help fund other recycling programs.

Sincerely,

SHEILA COGAN,
Executive Director.

MAY 12, 1995.

Hon. MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: I strongly endorse the National Beverage Container Reuse and Recycling Act of 1995. The ten states that have passed container deposit legislation have demonstrated that this system is an effective litter and solid waste reduction mechanism. It has been successfully implemented in both rural and industrial states, providing a convenient recycling opportunity for practically everyone in the states that have passed it.

Several reputable studies have shown that deposit systems are fully compatible with curbside recycling programs. In fact, statistics show that more than half of all the people served by curbside recycling in the U.S. live in states that have deposit/redemption systems. With recent reports showing that municipal solid waste generation in on the rise, we need as many recycling tools as possible to ensure that we meet our recycling targets.

With recycling markets showing unprecedented strength, a national bottle bill will just barely satisfy the markets voracious appetite for recovered PET soft drink bottles. Carpets, shoes, containers, and recyclers are in danger of going out of business if they don't find more supplies of recyclable materials.

So, in the interest of creating jobs, diverting millions of tons of solid waste and virtually ridding the landscape of littered beverage containers, I wholeheartedly lend my support to the Beverage Container Reuse and Recycling Act of 1995.

Sincerely yours,

TINA HOBSON,
President,
Renew America.

RESOURCE RECYCLING,
Portland, OR, May 12, 1995.

Senator MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: As technical editor of Resource Recycling, the nation's most widely distributed magazine dedicated to recycling issues, I endorse the National Beverage Container Reuse and Recycling Act of 1995.

Deposit laws have an impressive track record, both internationally and in the U.S. Sweden's recycling rate for aluminum cans of 90 percent in 1994, the highest in the world, is due to that country's deposit on cans. The ten states that have passed container deposit legislation, including our home state of Oregon, have demonstrated that this system is an effective litter and solid waste reduction mechanism. California recently reported a 75 percent decrease in

beverage container litter since 1986. Deposit laws have been successfully implemented in both rural and industrial states, providing a convenient recycling opportunity for practically everyone in the states that have passed it. I can say with confidence that the recycling movement would not be as healthy as it is today were it not for the consistent high return rates of the deposit law states.

Several reputable studies have shown that deposit systems are fully compatible with curbside recycling programs. In fact, statistics show that over half of all people served by curbside recycling collection in the U.S. today, live in states that have deposit or redemption systems. With recent reports showing that municipal solid waste generation is on the rise, we need as many recycling tools as possible to ensure that we meet our recycling targets.

With recycling markets showing unprecedented strength, a national bottle bill will just barely satisfy the market's voracious appetite for recovered PET soft drink bottles. Carpets, containers and textiles are some of the uses for recovered soft drink bottles, and plastic reclaimers are in danger of going out of business for lack of supplies of recyclable materials.

So, in the interest of creating jobs, diverting millions of tons of solid waste into high quality feedstocks for our factories and ridding the landscape of littered beverage containers, I would enthusiastically support the National Beverage Container Reuse and Recycling Act of 1995.

Sincerely,

STEVE APOTHEKER,
Technical Editor.

POLY-ANNA PLASTIC
PRODUCTS, INC.,
Milwaukee, WI, May 15, 1995.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: My hope is that this letter reaches you while there is still a live amendment on the floor for a National Container Deposit (A.K.A. "Bottle Bill.") As a recycler, I promise you that nothing brings in the bottles and cans as a deposit does and never has a market gone begging for that material more than it does today. If a deposit law is written to overcome the problems that were evident in the first group of state bills now in force, we could solve many of the recycling, solid waste, litter and financial problems in one fell swoop. The solution is to have the system based on the California redemption system now in place with some improvements. The key is to let redemption take place at recycling centers that desire it and not in the grocery store that hates it. The second target is to allow the approximate 1.6 Billion dollars in unredeemed deposits (estimate based on national ten cent deposit) to go directly to the cities responsible for administering recycling programs. This money, plus the cans and jugs that they too could redeem for full deposit from the waste stream would solve problem for cities such as DC where programs have just recently been shut down.

I am a board member of the National Recycling Coalition and have authored a position statement on such a bill that will be debated this Friday afternoon in Alexandria at the NRC's spring board meeting. I have studied the issue quite in detail and would be happy to answer any questions you may have either here from my office or while in the DC area this Friday and Saturday at the Holiday Inn Old Town. This is a chance for a great victory for recycling and our environment. I hope you can get behind it.

Thank you.

MARTY FORMAN,
President.

NORTHEASTERN CONNECTICUT RE-
GIONAL RESOURCE RECOVERY AU-
THORITY,

Dayville, CT, May 12, 1995.

Senator MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I wish to lend my support for the National Beverage Container Recycling Act. As a regional recycling coordinator in one of the nation's few bottle bill states I can unequivocally say that deposit legislation has greatly aided our recycling efforts. As a professional in the field of solid waste management the benefits of the National Beverage Container Recycling Act are many and clear:

Bottle Bills effect a far greater recovery rate for beverage containers than curbside recycling programs.

Bottle Bills dramatically reduce beverage container litter, including broken glass.

Deposit legislation results in a much higher grade of scrap.

By effectively capturing PET plastic recyclers are not faced with including light weight material at curbside.

Beverage containers have unique properties; they are one-use containers often consumed away from home (and recycling programs). For much of the rural U.S., expensive and expensive curbside recycling are not practical. Bottle bills help address this fact.

Refillable containers, once the mainstay of the beverage industry, are really only viable with deposits that ensure the containers are returned for refilling.

WINSTON AVERILL,
Regional Recycling Coordinator.●

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

S. 871. A bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes; to the Committee on Energy and Natural Resources.

THE HANFORD LAND MANAGEMENT ACT

● Mr. JOHNSTON. Mr. President, earlier this spring the Department of Energy released a report on the estimated cost of cleaning up the Department's nuclear weapons complex. The report provides the first realistic assessment of the cost of the cleanup program since it began in 1989.

The results of this assessment are sobering. The Department concluded that it would cost anywhere between \$175 billion and half a trillion dollars to clean up these sites, depending on the baseline case would cost \$230 billion over the next 75 years.

Even these figures exclude the cost of cleaning up problems for which no feasible cleanup technology exists, the \$23 billion we have already spent, and the \$50 to \$75 million per year we will spend monitoring and maintaining them after 2070.

The Department's report follows on the heels of the Blush report on the Department of Energy's efforts to cleanup the Hanford Reservation. Last fall, the Committee on Energy and Natural Resources commissioned Steve Blush, a former director of the Department of

Energy's nuclear safety office, to evaluate the Hanford cleanup.

The committee asked Mr. Blush to focus on Hanford because it is the largest of the Department's weapons sites and it poses some of the most intractable cleanup problems. Hanford now receives about one quarter of the \$6 billion we spend on this program each year. We have already spent \$7.5 billion on the Hanford cleanup and are currently spending \$1.5 billion per year.

Mr. Blush found that the Hanford cleanup is "floundering in a legal and regulatory morass." His report describes regulatory requirements that are:

unworkable, disjunctive, lack scientific and technical merit, undermine any sense of accountability for taxpayer dollars, and most importantly, are having an overall negative effect on worker and public health and safety.

The Blush report gives no aid or comfort to those who think all our problems can be solved by abolishing the Department of Energy. The report makes it clear that the responsibility for creating and perpetuating this unworkable system lies with us, the Congress.

We have given the Department of Energy an impossible task. We have told it to meet standards that cannot be attained, to use technologies that do not exist, to meet deadlines that cannot be achieved, to employ workers that are not needed, and to do it all with less money than it requested. To make matters worse, the law now provides for criminal penalties, including jail time, for senior Department officials if they fail to do the impossible.

Mr. President, the Hanford cleanup cannot continue on its present course. The administration has already proposed a \$4.4 billion reduction in the overall cleanup program over the next 5 years, over a billion of which is likely to come out of the Hanford cleanup. Lower funding will result in deadlines being missed, which will result in the Department being fined. Fines will have to be paid out of cleanup funds, which will result in more deadlines being missed and more fines being levied. Moreover, senior officials will be forced to leave their posts rather than face criminal sanctions.

If the cleanup program is not reformed, it will, in time, collapse of its own weight to the detriment of all concerned. The only question is how much money will have been wasted before that happens.

The problems besetting the Hanford cleanup cannot be fixed by the Department itself or by Congress through the appropriations process. The Blush report makes clear that "Congress must fundamentally change the underlying legal and regulatory framework. * * *" What is needed is "legislation that redefines the regulatory framework and establishes fiscal responsibility, a more realistic timeframe, better standards, and a more clearly defined mission for the cleanup."

Accordingly, Mr. President, Senator MURKOWSKI and I are today introducing a bill to establish a comprehensive program to clean up the Hanford site. The bill requires the Department of Energy to prepare a comprehensive environmental management plan for Hanford. The plan is to include a future land-use plan for the 560-square-mile site, an assessment of the risks posed by conditions at the site, and new programs for managing radioactive and hazardous substances and cleaning up environmental contamination at the site.

While the reforms made by this bill are necessary, they are not sufficient. Additional legislation will be needed to address conflicts between the new cleanup requirements and the existing jumble of environmental laws, regulations, and agreements that now govern Hanford. In addition, legislation is urgently needed to fix the problem of fines and criminal liability. Senator MURKOWSKI and I will also offer an amendment to the bill to address those matters.

The bill we are introducing today focuses solely on Hanford. That was the site the Blush report examined and, therefore, the site we know most about. Many of the problems at Hanford are systemic to the entire weapons complex. Many of the reforms we are proposing for Hanford can, and probably should be, extended to other sites. My hope is that Hanford might serve as a pilot for the rest of the complex.

Rumors about this bill have already excited considerable fear, consternation, and resentment in the Hanford community. Some of the conditions at Hanford pose serious health and safety risks that the public has every right to have remedied. In addition, the cleanup program is extremely important to the area's economy. A local paper has described the cleanup as bringing a "river of money" into the community. Understandably, residents do not want to see the flow diminished.

I want to assure the people of the Northwest and their able representatives in this body that my purpose in offering this bill is to create a program that works, that is sustainable within the Department of Energy's shrinking budget, that adequately protects the public health and safety and the environment, and that is scientifically sound and achievable.

I urge my colleagues to support me in this effort.

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

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

SUMMARY OF THE HANFORD LAND
MANAGEMENT ACT

Sec. 1. Short title

Self-explanatory.

Sec. 2. Definitions

Self-explanatory.

Sec. 3. Environmental management plan

Directs the Secretary of Energy to prepare a comprehensive plan governing environmental management activities at Hanford.

Environmental management activities include both the management (i.e., treatment, storage, and disposal) of hazardous substances and radioactive materials and environmental cleanup activities. The plan is to include a future land use plan for the site, an assessment of the risks at the site, and programs both for managing hazardous substances and radioactive materials and for cleaning up the site.

Sec. 4. Land use

Requires the Secretary to prepare a comprehensive land use plan for Hanford as part of the environmental management plan. The Secretary is to designate future uses for parcels within the Hanford Reservation after consideration of risks to the public and cleanup workers; the technical feasibility and cost of cleaning up the site for other uses; the importance of the site for other purposes; the views of the Department of the Interior, the Governor of Washington, affected communities, and Indian tribes; and the availability of federal funds.

Implementation of the Secretary's recommendations to release parcels from federal ownership will require subsequent legislation.

Sec. 5. Risk assessment

Requires the Secretary to conduct a comprehensive risk assessment of all major activities, substances, and conditions at Hanford that pose a risk to human health, safety, or the environment. The risk assessment protocol is based upon S. 333, the Risk Management Act of 1995, reported from the Committee on Energy and Natural Resources.

Sec. 6. Materials and waste management

Directs the Secretary to set new standards for the treatment, storage, and disposal of hazardous waste and radioactive materials at Hanford. The standards must provide adequate protection to the health and safety of the public and accord with the common defense and security (i.e., the standard applied to civilian nuclear power plants licensed by the Nuclear Regulatory Commission).

In setting these standards, the Secretary must consider reasonably anticipated future land uses, the views of the affected communities and Indian tribes, the availability of cost-effective technology, the risk assessment conducted under section 5, comparable federal and state standards, and the recommendations of the Defense Nuclear Facilities Safety Board.

In addition to the standards, the environmental management plan must include an inventory of hazardous substances and radioactive materials at Hanford and designate the method chosen to manage such substance or material.

In selecting management options, the Secretary must consider risk to the public and workers, cost, the possibility of interim storage pending radioactive decay or technological development, and the views of federal and state regulators and the affected communities and Indian tribes.

Sec. 7. Site restoration

Directs the Secretary to set new standards for cleaning up the site. The standards must provide adequate protection to the health and safety of the public and accord with the common defense and security (i.e., the standards applied to civilian nuclear power plants licensed by the Nuclear Regulatory Commission).

In setting these standards, the Secretary must consider reasonably anticipated future land uses, the views of the affected communities and Indian tribes, the availability of cost-effective technology, the risk assessment conducted under section 5, comparable federal and state standards, and the recommendations of the Defense Nuclear Facilities Safety Board.

In addition to the standards, the environmental management plan must designate the remedial actions chosen to clean up the site.

In selecting remedial actions, the Secretary must consider the effectiveness of the remedy, risk to the public and workers, cost, and the views of the affected communities and Indian tribes (i.e., the factors proposed by the Administration in its Superfund reform bill in 1994). The Secretary must also consider the possibility of interim containment pending radioactive decay and technological development.

Sec. 8. Workforce restructuring

Requires the Secretary to reduce the number of employees at Hanford to the number needed to accomplish authorized activities.

Sec. 9. Authorization of appropriations

Authorizes appropriation of such sums as may be necessary for environmental management activities at Hanford.●

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

S. 872. A bill to provide for the establishment of a modernized and simplified health information network for Medicare and Medicaid, and for other purposes; to the Committee on Finance.

THE HEALTH INFORMATION MODERNIZATION AND SECURITY ACT

Mr. BOND. Mr. President, I rise today to introduce an old friend—the Health Information Modernization and Security Act. In past years, I had worked with Senator Riegle in developing this legislation. I am now very pleased that Senator LIEBERMAN has been working with me to present this legislation for this Congress. Also, as in past years, we are very fortunate to have the bipartisan support of Congressmen HOBSON and SAWYER from Ohio who will introduce this bill in the other Chamber.

Our health care system today needlessly wastes billions of dollars on red tape and paperwork. This administrative waste effectively adds a 10-percent surcharge to every health insurance and health bill in the country. In a world that is increasingly automated and computerized, health professionals must still largely rely on an antiquated and inefficient paper-based system to file claims with insurers and coordinate benefits.

The bill that I am introducing today is the latest in a project that began 3 years ago with the introduction of the Health Insurance Simplification and Portability Act. That legislation has evolved considerably since then and we have sought the input of hundreds of experts from across the Nation. Last year during the health care reform debate, this effort received broad bipartisan support and was included in nearly every major health care reform bill.

The first and most obvious question is: Why is Federal legislation needed? The answer to that question goes back to 1991 when the Workgroup for Electronic Data Interchange, or WEDI as it is now called, was formed by then Secretary of Health and Human Services, Dr. Louis Sullivan. WEDI was formed to respond to the challenge of reducing administrative costs in the Nation's

health care system. WEDI is made up of health insurers, hospital officials, physicians, dentists, nurses, pharmacists, privacy experts, businesses, and technology experts. WEDI has strongly recommended that the Federal Government adopt standards for the electronic data interchange of financial and administrative information to ensure uniformity across State lines.

There is a blizzard of paperwork that is a nightmare for patients, hospitals, doctors and businesses in this country. Everyone agrees that a solution must be found that reduces these costs and the burden they are placing on our health care system and the ability of people to afford it. A study conducted by Lewin-VHI estimated that administrative costs add \$135 billion in health costs in the United States. These costs are escalated by the unwieldy inefficient paperwork-blizzard billing system that has evolved in this country.

In other sectors where accurate and timely information is key to production, the investment has been made in information systems. There are good explanations for why health care has been slow to invest in information systems. There are barriers such as so-called quill pen laws that require information to be sent and kept on paper. There is a lack of standards for the data and there is a lack of discipline on the part of insurers to agree unanimously to a common set of data to use for billing purposes. These are just a couple of examples of the barriers to overcome.

In March 1992, I introduced, along with Senator Riegle, the Health Insurance Simplification and Portability Act. The main purpose of that bill was to reduce administrative costs and protect consumers from insurance rip-offs. I am proud to say that it was one of the few bipartisan health bills that were introduced during that Congress. Later in 1992, I introduced the Medical and Health Insurance Information Reform Act which was the Bush administration's proposal for bringing administrative costs under control.

My goal has been to draft legislation to propose what the experts are saying must be done to reduce administrative costs. The steps they recommend would facilitate the development of a viable market in this area and lead to the eventual implementation of electronic solutions to many information problems that exist in health care today.

In determining the proper Federal role, the experts have been telling us is that first they don't want Government to be part of the problem. That should be obvious, but as we all know it many times is easier said than done.

Second, they want the Government to adopt a set of standards and conventions for electronic data interchange for financial and administrative transactions in the health care system. In adopting these standards, the Government should recognize the value of standards that have already been

adopted or are in development and not try to reinvent the wheel. Where standards already exist, those are the standards that should be adopted.

And lastly, but most importantly, legislation is needed to protect the privacy and confidentiality of patient data. The importance of this effort must be underscored. We must ensure that access to data that includes patient identifiers is secure.

Under this legislation, the Secretary would adopt national standards for electronic health claims and other financial and administrative transactions. The standards that would be adopted by the Secretary would be those that have been developed by private standards-setting organizations that seek broad consensus and input to their standards. If the Secretary determines, however, that the standards that have been developed by these standard-setting organizations are not practical and would lead to substantially greater administrative costs compared to other alternatives, then the Secretary could adopt other standards that are in use and generally accepted.

Two years after these national standards for electronic transactions are adopted, all health care plans including Medicare and Medicaid would be required to accept health claims electronically or perform any of the standardized transactions electronically with any doctor, pharmacist, dentist, hospital, or any health provider that wants to take advantage of the new electronic standards. Smaller health plans would be given an additional year, for a total of three years, to accept the electronic transactions.

Putting this system of standards in place means that all health providers would be able to send their insurance claims electronically to the universe of payors using the same formats and data. These standards would create an electronic universal claims form. It further means that payors would be able to perform coordination of benefits activities electronically with all other payors. This will help crack down on fraud and dramatically reduce the number of improperly paid claims. This will save consumers billions of dollars each year.

Having a system with these national standards in place will also mean that providers will no longer be forced to wade through the multiple forms and formats and requests for additional data for billing in order to get reimbursed for their services. In addition, health plans would reap large savings from the increased number of claims they would receive electronically. When insurers accept claims on paper an expensive data entry system is in place today to computerize the data from the paper claim.

This bill would also repeal the controversial Medicare and Medicaid Databank. This databank was created in OBRA 93 to collect data at the Health Care Financing Administration

to identify cases in which claims were improperly paid by Medicare when they should have been paid by a private insurer. By law, when a Medicare beneficiary has private insurance, the private insurance plan is the primary payor. The databank had proved to be unworkable, but the need still exists. Medicare loses billions of dollars each year by paying claims improperly.

In estimating the amount of savings that would result from this effort, the workgroup for electronic data interchange [WEDI] conducted an extensive study and analysis of data to determine the costs of implementation and the net savings possible from moving to electronic data interchange of health data. Using the WEDI data, it is estimated that the changes that would result from this bill would produce a net savings of over \$29 billion over a 5-year period to health plans, and providers.

In closing, the Government should play only the minimal role needed to help the market work. Government should not design the solution. If the Government tried to design the solution we would end up with another set of multimillion dollar DOD toilet seats and we would not solve the problems that exist.

In the past I have been told to wait for passage of a comprehensive health care plan to enact this legislation into law. I have agreed with that strategy in the past, but it did not happen and the legislation has died in two previous Congresses. Had we gone ahead in 1992, this system would be in place today. I do still want to see comprehensive health care reform and will await action by Congress to take that important step. I believe this legislation will and should be included in comprehensive reform of the health care system. However, I will ask the committee of jurisdiction and the majority leader to move this legislation as a free standing bill.

This health care information system will lower administrative costs, improve the quality of care and help us to learn what works and what does not work in health care. This system will provide innumerable benefits to our health care system and to the patients who rely on it.

I still agree that we need comprehensive health care reform. I want to see that done. I want this bill to be considered. I believe it will be included in most of the major reform packages coming forward. But I believe that, if no comprehensive legislation passes, we can pass this bill.

If we had gone ahead and passed it in 1992, the 2 or 3 years needed to get the system up and running would have been accomplished and we could have that process in place now.

If it appears that we will not have comprehensive health legislation I will ask the committee of jurisdiction and the majority leader to move this legislation as a freestanding bill. It will lower administrative costs, improve

the quality of health care, and help us learn what works and what does not work.

I welcome inquiries of my colleagues. We solicit support. Senator LIEBERMAN and I would be delighted to have other colleagues join with us in this effort.

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

SUMMARY OF THE HEALTH INFORMATION
MODERNIZATION AND SECURITY ACT

TITLE I—PURPOSE AND REPEAL OF DATABANK

Purpose: the purpose is to improve the Medicare and Medicaid programs and the efficiency and effectiveness of the health care system by encouraging the development of a health information network through the establishment of standards and requirements for electronic transmission of certain health information.

Repeal of databank: Repeals the Medicare and Medicaid Coverage Databank established in OBRA 93 when the Secretary of Health and Human Services provides written notice to Congress that the Medicare and Medicaid Coverage Data Bank is no longer necessary because of the operation of the health information network established pursuant to this Act.

TITLE II—ADMINISTRATIVE SIMPLIFICATION

Adoption of electronic transaction standards: The Secretary adopts standards so that certain common health care administrative transactions may be conducted electronically to reduce the costs of paying and providing health care. These transactions include claims, coordination of benefits, claims attachments, enrollment and disenrollment, eligibility, payment and remittance advice, premium payments, first report of injury, claims status, and referral certification and authorization of services. These standards must be those that have been developed by a private standards setting organization such as the American National Standards Institute.

The Secretary may adopt additional standards if the Secretary determines that the standards developed by private standards setting organizations are impractical and more costly to implement than a standard that is in use and generally accepted. The Secretary is required to publish in the Federal Register the analysis upon which such a determination is made.

The Secretary may adopt different standards for data elements than those developed by a standards setting organization through the use of negotiated rulemaking if a different standard would substantially reduce administrative costs.

The Secretary also adopts standards for unique health identifiers, code sets, electronic signatures and coordination of benefits.

Security standards: The Secretary is required to adopt security standards to protect the confidentiality of health information, to protect against threats or hazards to the security or integrity of the information, and to protect against unauthorized uses or disclosures of health information.

Privacy standards: The Secretary is required to adopt privacy standards including the rights of individuals with respect to their health information and the procedures for exercising these rights. Privacy standards shall also include standards describing the uses and disclosures which are authorized, and the security of such information.

Health information advisory committee: The Secretary must consult with other appropriate federal agencies in carrying out these duties and must rely on recommendations from the Health Information Advisory

Committee. The Secretary is required to publish in the Federal Register the recommendations of the advisory committee regarding adoption of standards.

Timetables for adoption of standards: Initial standards are to be adopted within 18 months of enactment with the exception of standards for claims attachments which are to be adopted within 30 months. The Secretary reviews and modifies these standards as determined appropriate but not more frequently than every 6 months. These modifications must still be those adopted by a private standards-setting organization or follow the procedures outlined earlier.

Requirements for health plans: If anyone desires to conduct any of the standardized financial and administrative transactions with a health plan (which includes government health plans), then the health plan must conduct that standard transaction in a timely manner. A health plan can satisfy this requirement by using a health information network service or "clearinghouse" to translate a transaction into the standardized form.

Timetables for compliance with requirements: Large health plans, as defined by the Secretary, must comply within 24 months of the adoption of a standard. Small health plans must comply within 36 months. Health plans must comply with modification to standards in a timeframe determined appropriate by the Secretary, but not sooner than 180 days.

General penalty for failure to comply with requirements and standards: A penalty of \$100 for each violation is imposed. No penalty higher than \$25,000 may be imposed during a calendar year for a violation of a specific standard or requirement. Penalties do not apply if it established that the person did not know and would not have known by exercising reasonable diligence. If the failure was due to reasonable cause and not to willful neglect and the failure is corrected within 30 days (or longer as determined by the Secretary), no penalty is applied. A penalty not already waived, may be further reduced if the failure is due to reasonable cause and not to willful neglect and the penalty would be excessive relative to the compliance failure.

Criminal penalties for wrongful disclosure of health information: Any person who knowingly (1) uses or causes a unique identifier to be used for a purpose not authorized by the Secretary, (2) obtains individually identifiable health information in violation of the privacy standards or (3) discloses individually identifiable health information to another person in violation of the privacy standards shall (1) be fined up to \$50,000, imprisoned for up to a year, or both, (2) if the offense is committed under false pretenses, fined up to \$100,000, imprisoned for up to 5 years, or both; and (3) if the offense is committed with intent to sell transfer, or use individually identifiable health information for commercial advantage, personal gain or malicious harm, fined up to \$250,000, imprisoned for up to 10 years, or both.

Effect on State law: Provisions, requirements and standards under this Act supersede contrary provisions of State law including laws that require medical plan records or billing information to be maintained in written rather than electronic form (so-called "quill pen" laws) and provisions which are more stringent than the requirements or standards under the Act. Exceptions: (1) state laws which establish more stringent requirements or standards with respect to privacy of individually identifiable health information (2) state laws which require health providers to transmit financial and administrative health transactions electronically, (3) state laws which provide for the coordina-

tion of health benefits which are in effect on the date of enactment, (4) state laws that the Secretary determines are necessary to prevent fraud and abuse. Nothing in this Act preempts or invalidates any state or federal laws for public health reporting of certain health data.

Health information advisory committee: Establishes a Health Information Advisory Committee of 15 members; 3 appointed by the President, 6 appointed by the Speaker of the House of Representatives after consultation with the Minority Leader, and 6 appointed by the President pro tempore of the Senate after consultation with the Minority Leader of the Senate.

Standards for patient medical record information: Not earlier than 4 years, but sooner than 6 years after enactment, the Secretary is required to recommend to Congress a plan for developing and implementing uniform data standards for patient medical record information and the electronic exchange of such information.

Grants for demonstration projects: The Secretary is authorized to make grants for demonstration projects to promote the development and use of electronically integrated clinical information systems and computerized patient medical records.

Mr. LIEBERMAN. Mr. President, I am pleased to join Senator BOND in introducing the Health Information Modernization and Security Act. The bill will reduce the cost and paperwork associated with processing health care transactions by speeding the transition from a paper-based system to a system where claims are processed electronically. We worked together on similar legislation in the last Congress in the context of comprehensive health care reform. I thank Senator BOND for his leadership on the bill.

Mr. President, virtually everyone agrees that simplifying the administrative processes in our health care system will have important benefits. Administrative overhead costs can be cut dramatically by standardizing claims forms and converting as many paper claims as possible to electronic transactions. In a hearing I chaired last year before the Regulation and Government Information Subcommittee of the Government Affairs Committee, Linda Ryan, director of the New York State demonstration project, testified that participating hospitals in New York were saving over \$8 a claim by filing electronically.

Even more money could be saved by improving the so-called coordination of benefits process whereby insurers determined who should pay first, and who should cover only the remainder of the bill. This process could be automated and completed electronically. At times, however, it is still done with telephone calls. We need to give our administrative systems a dose of high-technology medicine.

Reducing paperwork burdens and costs for doctors, hospitals, insurance companies, and patients will free up time and money so that more of our health care resources can go to delivering health care. The Government will also benefit, particularly from improved coordination of benefits. Since Medicare is often the second payer,

better coordination of benefits will save the Medicare program—and taxpayers that fund it—millions, perhaps billions, of dollars.

Experience counsels caution in building or imposing new information requirements in health care. The legislation we are introducing today imposes minimal burdens on the private and public sectors and will produce substantial savings throughout the health care industry. Under the bill, the Secretary of the Department of Health and Human Services will develop standards, rules and procedures to facilitate the electronic exchange of data.

Health plans will be required to use standard data formats. The Secretary will also establish standards to ensure the security and privacy of medical information.

The bill establishes a Health Information Advisory Committee to provide private sector input to the Secretary in developing standards for electronic claims submittal. The committee will also study the feasibility of adopting uniform data standards for patient medical record information, a challenging objective that, if achieved, will greatly reduce paperwork and improve the information available for health care research. The bill also authorizes the Secretary to provide grants for demonstration projects to promote the development and use of electronically integrated clinical information systems and computerized patient medical records.

Finally, the bill repeals an ineffective and burdensome law Congress passed as part of the 1993 Omnibus Budget Reconciliation Act. That bill established the Medicare data bank to improve coordination of benefits. The law requires employers to annually provide to the Federal Government the names, social security numbers, and dates of coverage for all employees, spouses and dependents receiving health coverage. Last year in a Government Affairs Committee hearing the General Accounting Office testified that the Medicare data bank will not even add significantly to Medicare or Medicaid's ability to collect mistaken payments. The bill we are introducing today will improve Medicare coordination of benefits without imposing an unnecessary burden on employers.

Mr. President, health care information processing is, to be frank, a dry and complicated subject. But by addressing this "below the horizon" issue we can significantly reduce the cost of our health care system and improve its effectiveness. I urge my colleagues to join Senator BOND and I in our effort to do just that by supporting the Health Information Modernization and Security Act.

Mr. ASHCROFT. Mr. President, may I take this opportunity to commend the senior Senator from the State of Missouri for his persistence on a most important matter as it relates to health care of Americans. I know his diligence in this area has resulted from

a long time of study and an understanding of medical recordkeeping. I am pleased to have the opportunity to commend him and to thank him for his performance in this respect.

THE CONTRIBUTIONS OF MARK HAYES

Mr. BOND. Mr. President, because of the limitations of time during morning business, I gave only a summary of the statement I had on the Health Information Modernization and Security Act.

There is another very important part of it that I would like to have added to that record. The fact that this measure has been worked on for at least 3, and perhaps 4½ or five years by Mark Hayes, a very capable member of my staff.

Mark has worked tirelessly contacting all of the interested parties working with governmental agencies, private standard setting organizations, and people who are concerned about privacy, and all other aspects of the measure. It is due in large part to his dedication, his skill, and his good humor to put up with all of the many, many different variations and different ideas that we were able to produce what I think is a very good measure.

I am very pleased with that measure. But I also note that this is the last day that Mr. Hayes will be working with me on the Small Business Committee staff. And I take this opportunity to express to him my sincere appreciation for his dedicated efforts.

I can say from those who have contacted me who have worked with him that there are many, many people who join with me in expressing appreciation for the great leadership that he has shown.

We shall miss him in the Federal Government. But I know that he will do well in the private sector, and the work that he has done on the Health Information Modernization and Security Act I think will serve the cause of improving and making more efficient the health care delivery system in the United States.

By Mr. PRESSLER:

S. 875. A bill to amend section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota; to the Committee on Environment and Public Works.

LAND TRANSFER LEGISLATION

Mr. PRESSLER. Mr. President, today I am introducing a bill to stop the proposed transfer of Federal land in South Dakota to the Standing Rock Sioux Tribe. The bill is simple: It removes any authority for the U.S. Army Corps of Engineers to transfer lands in South Dakota acquired by the U.S. for construction and operation of reservoirs on the mainstem of the Missouri River and transfer them pursuant to Public Law 93-599, or any other law.

BACKGROUND

This issue is not new to the Senate and to the people of South Dakota. In October 1992, Congress passed the Three Affiliated Tribes and Standing

Rock Sioux Tribe Equitable Compensation Act. This law called for the transfer of approximately 15,000 acres along Lake Oahe and the Missouri River in South Dakota from the corps to the Standing Rock Sioux Tribe. However, it soon became clear that this proposed transfer was a mistake. The transfer had significant public opposition, beginning with the Governor of South Dakota. It also was learned that the costs to the Federal Government to transfer these lands was significantly more than the actual value of the land itself.

As a result Mr. President, on February 9, 1994, the Senate voted to repeal the proposed land transfer. However, the Senate repeal was amended by the House and the final version signed into bill contained language directing the corps to proceed with the transfer. The House language directed the Corps to pursue these land transfers pursuant to Public Law 93-599—a 1975 Federal law that deals with the disposal of surplus government lands.

Mr. President, I remind my colleagues that the Senate last year rejected the land transfer language due to the costs involved. Even under the best scenario, the costs of the transfer was more than double than value of the land. Some costs estimates were more than five times the estimated land value. Hardly a wise use of taxpayers' dollars.

LEGISLATION IS NEEDED FOR THE TRANSFER OF LANDS

Mr. President, I have been very hesitant to support Federal land transfers since they were first suggested in 1992. I also am quite troubled with the process being used by the U.S. Army Corps of Engineers. The corps appears to be intent in doing all it can to transfer the land, regardless of what is in the best interests of all South Dakotans. In fact, I believe the corps lacks the statutory authority to transfer the large tract of land near Lake Oahe. This is most troubling since the corps has regulations pending to transfer these lands.

As I stated earlier, Public Law 93-599 deals with the disposal of excess government lands. The corps previously conducted an assessment of excess lands along Lake Oahe and determined that only 386 acres could be deemed excess. Yet, the corps intends to transfer 15,000 acres.

Mr. President, when I learned of the proposed transfer in March of this year I wrote to the Secretary of the Army questioning the legal authority of the corps to transfer Federal land beyond what it deemed to be excess. I asked the Secretary to provide me with a justification of the corps' legal authority to carry out the transfer, prior to the issuance of any regulations.

I was surprised to learn that the corps issued the land transfer regulations on April 10, 1995. It was more than a month after that, on May 17, that I received response to my inquiry to the Secretary of the Army.

The response is very troubling. Essentially, the corps' intends to redefine the regulations to expand what is deemed excess in order for the corps to carry out the transfer. In short, rather than alter the transfer to make it consistent with the law, the corps intends to twist the law so that it is consistent with the transfer.

Mr. President, that is unacceptable. The Army clearly is intent on an ill-advised and illegal transfer of Federal land. The lands under consideration are neither excess land nor conditionally excess lands within the meaning of the law as currently defined. Given this fact, and the clear will of Congress to restrict the corps' land transfer authority, this land transfer must be decided by legislation—not regulation.

STRONG PUBLIC OPPOSITION

Mr. President, plain and simple the proposed land transfer is not in the best interest of South Dakota. As disturbed as I am that the corps is acting beyond its legal authority, I am equally astounded that the corps would take this action without hearing from the State of South Dakota and its citizens. Their concerns must be heard.

What are these concerns? First, South Dakotans are concerned about future access to the land. Sportsmen in the State are concerned that hunting and fishing could be restricted. Others are concerned with possible restrictions on the use of shorelines for recreational activities, such as swimming, boating and picnicking.

Those supporting the transfer state that access will be secured. How can they be so sure? Nothing has been proposed to ensure continued access. The interests of all South Dakotans are not being considered.

In addition, the Governor of South Dakota also has serious concerns with the transfer. In fact, both the Governor and attorney general of South Dakota support the legislation I am introducing today.

Wildlife management is a major concern should corps lands be transferred. That is why the South Dakota Wildlife Federation opposed the transfer. As a recent editorial in the Yankton Press and Dakotan opposing the transfer said " * * * the real public concern is the environment. Environmental management along the Missouri already is damaged by dozens of jurisdictions with different agendas. Imagine the difficulty if the corps needed a few acres back for a bird breeding bank." The editorial concluded the corps ownership of the land offers a systems management concept for the river. This would be lost if the lands were transferred.

In addition, the issue of jurisdiction over land and water in the affected areas needs to be addressed. Jurisdiction on power generation facilities must be spelled out.

DANGEROUS PRECEDENTS ARE BEING SET

Mr. President, should the proposed regulations be carried out, a dangerous precedent clearly would be set that

could impact future land transfers. Remember, Congress passed legislation to do the transfer in 1992, and in 1994 passed legislation to restrict the transfer.

By permitting this transfer through a clearly unfair regulatory process, future land transfers could take place throughout the country that are not in the public interest. As a recent editorial in the Watertown Public Opinion stated "The authority for the corps to transfer excess property away from the taxpayers who finance their project is inconceivable, and if allowed to proceed will have far-reaching ramifications in other states."

Mr. President, I ask unanimous consent several documents be placed in the RECORD at the end of my remarks.

CONCLUSION

Mr. President, the central issue here is fairness—fairness for all impacted by land transfers. The issue is about doing the right thing for the State of South Dakota and all its citizens.

Do not be misled. The corps' transfer would be precedent setting.

Similar transfers could take place that include land that is part of a county's tax base. Transfer of these lands would remove them from the tax base and may cause financial hardships in counties where budgets are already stretched to the limit.

Mr. President, ultimately what we must put in place is a legislative process that ensures citizen consultation and input on all transfers of Federal land. All citizens—Native American and non-Native American—should have the opportunity to have a fair chance to determine how public land is to be used and administered.

Mr. President, while this bill simply addresses the land transfers in South Dakota along Lake Oahe, I also am preparing legislation to ensure that land currently on a county's tax roll, stays there. Under that proposal, the mere purchase of land, whether it be by the Federal Government, tribe or other entity, should not result in the removal of land from the local tax rolls. If it is the Federal government, acting on behalf of the tribes, or just the tribes itself, it should require legislation passed by Congress to remove the purchased land from the county tax rolls. Again, the issue is fairness. This is one area that needs to be carefully addressed.

Mr. President, I will save those comments for when that bill is ready. Today I wish to bring the land transfer bill into the public debate. I urge my colleagues to work with me to seek a solution. Today, it is Lake Oahe, SD. Tomorrow, it could be Utah, Arizona, California or elsewhere. Again, the issue is fairness—a fair process is necessary to achieve a fair and just use of the public lands. That is what this legislation is all about.

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

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

S. 875

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

SECTION 1. TRANSFER OF EXCESS PROPERTY TO SECRETARY OF THE INTERIOR FOR THE BENEFIT OF INDIAN TRIBES.

Section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) is amended in the first sentence by striking "real property located" and inserting "real property (not including lands in the State of South Dakota that were acquired by the United States for construction and operation of reservoirs on the main stem of the Missouri River) that is located".

OFFICE OF ATTORNEY GENERAL,

Pierre, SD, May 16, 1995.

Hon. LARRY PRESSLER,

U.S. Senate, Russell Senate Office Building, Washington, DC.

Re: Proposed bill "To amend Section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota"

DEAR SENATOR PRESSLER: This letter is in relation to the bill which you plan to propose which would have the effect of excluding lands acquired on reservations in South Dakota for the construction and operation of the Missouri River mainstream reservoirs from the operation of 40 U.S.C. §483(a)(2).

I endorse the bill because it would preserve the public use and access of these lands consistent with the ruling of the United States Supreme Court in *South Dakota v. Bourland*.

Respectfully submitted,

MARK BARNETT,

Attorney General.

DEPARTMENT OF THE ARMY

OFFICE OF THE ASSISTANT SECRETARY,

Washington DC, May 17, 1995.

Hon. LARRY PRESSLER,

U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: This replies to your letter to the Secretary of the Army, concerning the proposed rule which would authorize excessing of former trust lands at Lakes Sakakawea and Oahe to the General Services Administration (GSA) for ultimate transfer to the Department of the Interior to be held in trust for the Standing Rock Sioux Trade (SRST) and Three Affiliated Tribes (TAT).

Our legal authority for the proposed rule is based on long-standing Federal property law. The Federal Property and Administrative services Act of 1949 (the Act), the law governing all Federal real property transactions, and the Federal Property Management Regulations (FPMR), promulgated by the GSA pursuant thereto, authorize transfers of excess real property between Federal agencies.

The Act provides that each executive agency shall "transfer excess property under its control to other Federal agencies." (Title 40, U.S. Code, section 483(c)) "Excess property" is defined by the Act as "any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof." (Title 40, U.S. Code, section 472(e)).

The statute and the guidelines for utilization of excess real property, contained in the FPMR, make it clear that a Federal agency has much discretion in determining whether "any" property is "not required" for its needs. The guidelines (41 Code of Federal Regulations 101-47.201-2) also make it clear that other interests may be considered in making this determination:

"Each executive agency shall . . . survey real property under its control . . . to identify property which is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency shall determine whether continuation of the current use or another Federal or other use would better serve the public interest, considering both the agency's needs and the property's location."

While the corps has promulgated regulations which outline and address corps policy regarding property requirements for civil works projects, it is within the authority of the Chief of Engineers to make exceptions to, waive, or alter those regulations. The proposed rule is such an alteration.

This rule, which was published in the Federal Register on April 10, 1995, would expand the corps' policy regarding excess Federal property at two specific Indian reservations. Under the proposed rule, former trust lands at the Corps projects located within the SRST and TAT reservations would be considered potentially excess to project purposes if the legislatively authorized project purposes could be protected through the retention of appropriate interests in the property or the imposition of conditions. The property would be deemed excess only if three conditions were met. First, individuals who have made substantial capital investments on the property through arrangements with the Corps must be able to recover their investments prior to the excessing. Second, there must be no unreasonable impact on access to public and private land. Third, there must be no unreasonable impact on municipal and rural water supply systems.

The property that is deemed excess to the corps ultimately would be transferred to the Department of the Interior to be held in trust for the SRST and TAT. Implementation of the proposed rule would allow the corps to maintain such property or interests in property as are required for the operation of the project, while at the same time, allow for other productive and compatible uses of the land by the tribes. The Corps believes that implementation of the proposed rule would provide for the optimum use of Federal property in the public interest.

This initiative is consistent with congressional intent expressed in Public Law 103-211. That statute repealed the general land transfer provisions of the Equitable Compensation Act which provided for the return of certain corps project lands to former non-Indian and Indian owners as well as to the tribes. This repeal further provided that the corps should proceed with the Secretary of the Interior to designate excess lands and transfer them ultimately to the Department of Interior to be held in trust for the tribes pursuant to Public Law 93-599. Public Law 93-599 is special legislation that recognizes the trust obligations the Department of the Interior has to Indian tribes.

In the corps' view, the proviso contained in Public Law 103-211 is a clear indication that congress wanted the corps to provide for the transfer of lands at Lakes Sakakawea and Oahe to the tribes to the extent the corps can designate property as being excess to corps needs. The Corps has developed a procedure for identifying excess property and, under the rule, would convey only such lands or interests in lands that are not necessary for the project purposes. The Corps is cognizant of the requirements of the original project authorizing legislation, and I assure you that the Corps will retain sufficient interests in the property or impose such conditions as are necessary to protect all legislatively mandated project purposes, including public access for recreation.

Thank you again for your interest in this issue. We trust that this letter addresses your concerns and that it explains why the Corps believes that the proposed rule is consistent with existing law. Their intent is to allow the public 90 days to provide comments, which will be considered carefully before publishing a final rule. I encourage you and your constituents to participate in the rulemaking process, by providing specific comments on the proposed rule.

Sincerely,

JOHN H. ZIRSCHKY,
Acting Assistant Secretary of the Army,
(Civil Works)

LAND TRANSFER ANGERS SPORTSMEN GROUP
(By Kevin Woster)

Legislation being developed by U.S. Sen. Tom Daschle could threaten public access on portions of the Missouri River, the director of a state sportsmen group said Wednesday.

But a Daschle spokesman said the senator is committed to maintaining public access to the river while seeing if some surplus lands can be returned to previous owners, including American Indian and non-Indians. The issue will be discussed today beginning at 11 a.m. at the Wrangler Motel conference room in Mobridge.

Roger Pries of Pierre, executive director of the South Dakota Wildlife Federation, is angry over the discussion about returning certain public lands along the northern portion of Lake Oahe to private ownership.

"Something like that would cause a bigger uproar among a lot of sportsmen in South Dakota than trying to give the Black Hills back," Pries said. "Once you give some land back to a few landowners, all the rest are going to want the same thing."

Pries wrote Daschle a letter questioning why he wasn't notified of the Mobridge meeting. He said the proposal "flies in the face of nearly all South Dakota citizens and sportsmen."

Daschle staff member Eric Washburn said Wednesday that no legislation has been introduced. Daschle is working with federal, tribal, state and local officials as well as landowners and the general public to develop a fair proposal, Washburn said.

He said the meeting was advertised in the Mobridge paper and Daschle was hoping for a good turnout and a variety of suggestions.

The land issue arose years ago in a federal effort to return to the Standing Rock Sioux and Three Affiliated tribes of North Dakota certain surplus lands that had been acquired for the Oahe and Garrison reservoirs. The Standing Rock reservation is on the west bank of the Oahe Reservoir in both North Dakota and South Dakota.

Some non-Indian landowners told Daschle they wanted to regain their land and the senator said the issue should be considered, Washburn said.

Daschle's staff is gathering information to help write proposed legislation. In South Dakota, it is intended to be limited to surplus land within the Standing Rock reservation on the west side of the river, Washburn said. "This is not at all intended to set any sort of precedent," he said.

LAND TRANSFER AT LAKE OAHE IS BAD
DECISION

South Dakota's congressional delegation can get together on some stuff, but they're having problems agreeing on one that could make a big difference on a number of South Dakota issues.

It appears that a few high-ranking folks inside the U.S. Army Corps of Engineers, and South Dakota's two Democrats in Congress want to turn Corps land along Lake Oahe to the Standing Rock Sioux Tribe.

The single South Dakota Republican in Congress, Sen. Larry Pressler, and a whole bunch of lower-ranked folks in the Corps think it's bad to give the land to anybody.

Some Corps folks see it as a major problem in future management of the Missouri and its reservoirs.

Pressler recently sent out a letter opposing the giveaway of as much as 15,000 acres on grounds ranging from doubts that the transfer is legal to restriction of the land for hunting, fishing, livestock use, irrigation and power generation.

The problem is that under a "politically correct" but legally questionable transfer of land to anybody, it takes some degree of courage to argue against it.

But there are overwhelming reasons why this could create a major environmental and economic problem for South Dakotans and Americans in general. Sen. Pressler only touches on them.

In the first place, the land involved already was bought and paid for by the Corps when the dams were built. Some was bought from tribes, some from private owners. How can the government legally give land to some former owners and not others?

Second, regardless of possible cutoff of public access to these lands, the real "public" concern is environmental. Environmental management along the Missouri already is damaged by dozens of jurisdictions with different agendas. Imagine the difficulty if the Corps needed a few acres back for a bird breeding bank.

Third, in many cases there may be more reason to keep the land than when the dams were built. Erosion is happening. Is it good for fish, wildlife and plants or not? Shouldn't we know?

Elsewhere the government is restricting private land use for environmental reasons. Shouldn't they keep vital land they already control rather than risk confrontation with tribal officials over a fish or bird?

This position should not be seen as anti-tribal ownership. The same argument would be made if a couple of hundred ranchers were involved.

The Missouri and its recreational potential are vital to South Dakota's economic future. We already have plenty of problems promoting that priority with downstream states and with "environmentalist" groups that disagree with each other.

Continuing Corps ownership offers the potential, at least, for a "systems management" concept for the river. And that's the only sensible foreseeable future.

GIVING BACK PURCHASED LAND SETS POOR
PRECEDENT

(By Brett Tschetter)

The original boundaries of the Indian reservations along the Missouri River included the land and water to the center of the Missouri River channel. Private ownership was much the same outside of the reservation boundaries.

When the Oahe Dam was formed and Lake Oahe began the fill, the Missouri River disappeared and a new body of water was developed. The new lake flooded land on both sides of the old river and eliminated that land for purposes previously utilized.

These lands were purchased by the United States government and new boundaries were set up. The land that was purchased above the high-water mark was determined to be used in later years for erosion and re-establishment of the habitat loss from the flooding.

The lands that bordered the lake were established as public lands because the government had purchased the land from the previous owners. Access to that land has been open to the public ever since the purchase.

In the case of the Standing Rock Indian Reservation, the tribe and other owners have been paid more than \$20 million for the original 56,000 acres taken for the formation of the Oahe Project within the reservation boundaries.

Other tribes and private landowners were paid for the lands that were below the take-line boundaries set up by the Oahe Project.

The take-line boundary was set up on both sides of the river to make the boundary between public and private land.

In 1975, Congress passed a law that would allow the U.S. Corps of Engineers to declare land within the projects as excess and transfer that land back to the original owner if found that the land was not needed for the continuation of the project.

The Corps is currently reviewing the Oahe Project and considering returning the land above the highwater mark to the Standing Rock Sioux Tribe. The land would be turned over to the Department of the Interior and held in trust for the tribe.

This would give the tribe jurisdiction over previously public land and eliminate the public uses established upon the land's purchase.

The precedence of this issue is sure to continue with other land on other reservations and private land on both sides of the river.

Those lands within the Oahe Project will not be the only ones considered. Soon after this action, the land along Lake Sharpe and other Corps of Engineers lands will be under the same scrutiny.

The lands within the take line boundaries are no more excess than water itself. The government has already had to buy more land that has eroded farther than the project originally purchased.

The government still has to solve the mitigation issue and restore 233,000 acres of habitat that was flooded. Where will that land come from if the take land is given back? A 90-day hearing period is currently under way to hear the comments of the public. You can tell the Corps of Engineers your thoughts by writing to: 215 North 17th St., Omaha, NE 68102, Attn: CEMRO-OP-IN (Mike George).

Your rights as a sportsman and as a U.S. citizen will be encroached upon if the Corps decides to return the land that has already been paid for by you and me.

CORPS NEEDS TO RECONSIDER A MORE
EQUITABLE TRANSFER OF EXCESS LAND

(By James Madsen)

In February of 1994, Congress repealed portions of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act (Public Law 102-575) regarding the return of land at Lake Sakakawea and Lake Oahe. That repeal contained language stating that the U.S. Army Corps of Engineers (Corps) should proceed with the Secretary of the Interior to designate excess land within the Fort Berthold and Standing Rock Sioux Reservation reaches of Lake Sakakawea and Lake Oahe, respectively. The land identified as excess would then be transferred to the Secretary of the Interior to be held in trust for the benefit of the tribe of Indians within whose reservation such excess real property is located, as contemplated in Public Law 93-599.

In what was called an effort to gain a more complete understanding of the public's perception of this transfer, two public meetings were held in June 1994. Both of these meetings were held in remote areas of the two reservations. Based on the comments offered as a result of those meetings, it is apparent that the Corps is again proceeding to identify and transfer these excess properties.

The lands along the Missouri were purchased indiscriminately with federal dollars

and without regard to race or nationality of the affected sellers. The attempt to restore ownership to only one segment of the population from which these lands were purchased is an affront to everyone who sacrificed their lands to the Missouri River impoundments.

Whether justified by law, this is clearly a discriminatory and political maneuver which will do more to foster prejudice in South Dakota than the late Gov. Mickelson's Reconciliation Act could have ever dreamed of overcoming.

Values for the relinquishment of hunting and fishing rights were also specifically included in the land purchases. In addition, the Supreme Court decision, *South Dakota vs. Bourland*, decided June 14, 1993, reaffirmed "that in taking tribal lands for the Oahe Dam and Reservoir project and opening these lands for public use, Congress, through the Flood Control and Cheyenne River Act, eliminated the tribe's power to exclude non-Indians from these lands, and with that the incidental regulatory jurisdiction formerly enjoyed by the tribes."

These facts should have clarified for all time the public's right to the use of these lands. However, the Corps of Engineers has taken the position that they do not exercise authority over fish and wildlife resources nor do they have the authority to delegate wildlife management. This lack of or unwillingness to assume responsibility for the hunting and fishing rights will result in the reversion of those rights with the transferred lands. Argument can be made that this will effectively nullify the *Bourland* decision, restrict the public's use of land and adjoining water and jeopardize the millions of dollars that the states have invested in their fisheries programs.

We should all question why the Corps of Engineers has taken such rapid steps to comply with Public Law 93-599 while for 35 years has ignored its mitigation promises of the Pick Sloan Act which required 972,000 acres of irrigation development for South Dakota.

The authority for the Corps to transfer excess property away from the taxpayers who finance their projects is inconceivable, and if allowed to progress will have far-reaching ramifications in other states.

We strongly urge everyone who has the desire to impact this decision to take action now. Instead of pitting Dakotans against Dakotans, we suggest that the Corps consider a more equitable transfer to an entity, such as the S.D. Department of Game, Fish and Parks, that will hold the land in trust for all people and will manage the land in the best interests of the public.

By Mr. EXON (for himself and Mr. KERREY):

S. 876. A bill to provide that any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, shall not be considered funds available to such agency for purposes of making certain impact aid determinations; to the Committee on Labor and Human Resources.

IMPACT AID LEGISLATION

• Mr. EXON. Mr. President, I introduce legislation that will ensure that Department of Defense supplemental payments are made to heavily impacted school districts like Bellevue, NE without reducing their payments from the Department of Education as is unfortunately happening now. I am pleased to have my colleague, Senator KERREY, as an original cosponsor.

The DOD supplemental payments are used to reduce 1994 impact aid payments being made now. The use of the funds is a new and in my opinion erroneous interpretation by the Department of Education as to the meaning of "all funds available," which is contained in its regulation. The intent of the DOD appropriation was to provide a supplemental, not a substitute, payment to these heavily impacted school districts. The offset which is being implemented by the Department of Education makes no sense.

This legislation clears up any ambiguities.

I am hopeful that this legislation can be considered by the appropriate committee in a timely fashion. The 1994 impact aid payments are needed by these school districts to meet current budget requirements. The only payment for 1995 received so far by these districts has been the hold-harmless payment. In some cash-strapped school districts, funds are being borrowed to meet current payrolls and other obligations. Prompt passage of this legislation will help alleviate the problem for many of these districts and will ensure that the Education Department understands and carries out the will of Congress.●

By Mrs. HUTCHISON:

S. 877. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Labor and Human Resources.

CLINICAL LABORATORY IMPROVEMENT ACT AMENDMENTS

• Mrs. HUTCHISON. Mr. President, I introduce legislation that will overturn an expensive and unnecessary regulatory burden that contributes significantly to the high cost of health care.

In 1988, Congress passed the Clinical Laboratory Improvement Act, as a reaction to reports about laboratories that inaccurately analyzed PAP smears. CLIA 1988 was intended to address the quality of laboratory test performance. Unfortunately, the Federal regulations that flowed out of the CLIA 1988 legislation do not reflect the intent of the act and have not resulted in any documented improvement in lab results and health care. What these new regs have done is add a huge new paperwork burden on doctors. This unhappy result is a classic case of out-of-control regulations driving up medical costs.

A recent Texas Medical Association study pegs the annual cost of just the paperwork and administrative overhead added by the CLIA at an average of \$4,435 per physician. This is in addition to the cost of registration, labor controls, proficiency testing, and inspection or accreditation. At a time when the entire health care industry is under pressure to control health care costs, the CLIA regulations not only subject physicians to increased administrative costs but also decrease the

amount of time devoted to patient care.

Dr. McBrayer from the Texas panhandle described his experience with the CLIA inspection process as follows:

We were written up for such monumental things as the fact that I had not signed the procedure manual for one of our lab machines. Therefore, everything done on that machine, including the training, was out of compliance. The fact that the manufacturer's rep had come and trained the staff was to no avail. Everything was out of compliance because I didn't sign it. It didn't matter that (my lab staff) had learned how to use it. That was irrelevant.

Dr. McBrayer's experience is not unique. CLIA regulations that pile on paperwork and silly penalties do not help the patient or the doctor; they simply create lots of unnecessary busywork for Government regulators.

The CLIA amendments I am introducing will reduce the burdens on physicians who perform laboratory tests in their offices, and thereby free up resources and time to dedicate to patient care. In Texas alone, of the physicians who provided testing services in their offices prior to CLIA, 27 percent have closed their office labs, and another 31 percent have dropped some types of testing, as a direct result of the CLIA 1988 reforms.

Reduced availability of testing labs has measurably affected the health care of a number of rural areas of Texas. Many physicians are concerned about the possible consequences to patients caused by the decreased access to testing or the delay in obtained results. Rather than promoting better health care quality, the regulations promulgated pursuant to the 1988 CLIA legislation have had the perverse result of diminishing quality and increasing the costs of health care delivery.

Mr. President, the CLIA 1995 amendments will not jeopardize the quality of laboratory testing. The CLIA amendments I am introducing today are aimed at ensuring that essential laboratory testing performed by physicians remains a viable diagnostic option for physicians and their patients—without the excessive rules and administratively complex requirements that currently exist. It will roll back health care cost increases caused by overregulation and protect patients in rural areas who are losing access to necessary testing and care.

I hope that all my colleagues will join me in supporting this legislation.●

By Mr. COCHRAN (for himself, Mr. LOTT, Mr. WARNER, Mr. MCCONNELL, Mr. SANTORUM, Mr. ABRAHAM, Mr. D'AMATO, Mr. BOND, Mr. PRESSLER, Mr. DEWINE, Mr. KYL, Mrs. KASSEBAUM, and Mrs. HUTCHISON):

S. 878. A bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America combined benefit fund by certain surplus amounts in the fund, and for other purposes; to the Committee on Finance.

REDUCTION OF MANDATORY PREMIUMS TO THE
UMWA COMBINED BENEFITS FUND

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

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

S. 878

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

SECTION 1. REDUCTION IN REQUIRED PREMIUMS TO COMBINED FUND BY EXCESS SURPLUS IN FUND.

(a) IN GENERAL.—Paragraph (3) of section 9704(e) of the Internal Revenue Code of 1986 (relating to shortfalls and surpluses) is amended to read as follows:

“(3) SHORTFALLS AND SURPLUSES.—

“(A) DETERMINATIONS.—

“(i) IN GENERAL.—Subject to the provisions of clause (iv), the trustees of the Combined Fund shall, as of the close of each plan year beginning on or after October 1, 1993—

“(I) determine any shortfall or surplus in any premium account established under paragraph (1) and, to the maximum extent possible, reduce or eliminate any shortfall in any such account by transferring amounts to it from any surplus in any other such account, and

“(II) determine, after any transfers under subclause (I), the aggregate shortfall or surplus in the Combined Fund, taking into account all receipts of any kind during the plan year from all sources.

“(ii) DETERMINATIONS MADE ON CASH FLOW BASIS.—

“(I) IN GENERAL.—Subject to the provisions of subclause (II) and clause (iii), any determination under clause (i) for any plan year shall be determined under the cash receipts and disbursements method of accounting, taking into account only receipts and disbursements for the plan year.

“(II) CERTAIN PRIOR YEAR SURPLUSES.—For purposes of applying subclause (I) for any plan year, any surplus determined under subparagraph (A)(i)(II) as of the close of the preceding plan year, including any portion used as provided in subparagraph (B), shall be treated as received in the Combined Fund as of the beginning of the plan year.

“(iii) DISREGARD OF TRANSFERRED AMOUNTS.—For purposes of this subparagraph—

“(I) no amount transferred to the Combined Fund under section 9705, and no disbursements made from such amount, shall be taken into account in making any determination under subparagraph (A) for the plan year of the transfer or any subsequent plan year, and

“(II) any amount in a premium account which was transferred to the Combined Fund under section 9705 may not be transferred to another account under clause (i)(I).

“(iv) SPECIAL RULE FOR 1994.—In the case of the plan year ending September 30, 1994, the determinations under subparagraph (A) shall be made for the period beginning February 1, 1993, and ending September 30, 1994.

“(B) TREATMENT OF SURPLUS.—

“(i) NONPREMIUM ADJUSTMENTS.—Any surplus determined under subparagraph (A)(i)(II) for any plan year shall be used first for purposes of the carryover under section 9703(b)(2)(C), but only to the extent the amount of such carryover does not exceed 10 percent of the benefits and administrative costs paid by the Combined Fund during the plan year (determined without regard to benefits paid from transfers under section 9705).

“(ii) PREMIUM ADJUSTMENTS.—The annual premium for any plan year for each assigned

operator which is not a 1988 agreement operator shall be reduced by an amount which bears the same ratio to the surplus determined under subparagraph (A)(i)(II) for the preceding plan year (reduced as provided under clause (i)) as—

“(I) such assigned operator's applicable percentage (expressed as a whole number), bears to

“(II) the sum of the applicable percentages (expressed as whole numbers) of all assigned operators which are not 1988 agreement operators.

The reduction in any annual premium under this clause shall be allocated to the premium accounts established under paragraph (1) in the same manner as the annual premium would have been allocated without regard to this clause, and in the case of assigned operators which sought protection under title 11 of the United States Code before October 24, 1992, without regard to section 9706(b)(1)(A).

“(C) SHORTFALLS.—If a shortfall is determined under subparagraph (A)(i)(II) for any plan year, the annual premium for each assigned operator shall be increased by an amount equal to such assigned operator's applicable percentage of the shortfall. Any increase under this subparagraph shall be allocated to each premium account with a shortfall.

“(D) NO AUTHORITY FOR INCREASE.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits in any plan year in excess of the limit under section 9703(b)(2).

“(E) SPECIAL RULE FOR 1995.—In the case of the plan year beginning October 1, 1994, the adjustment under subparagraph (B) shall be made effective as of such date and any assigned operator which receives a reduction in premiums under subparagraph (B) shall be entitled to a credit to the extent it has paid, taking the reduction into account, excessive premiums during plan year.”

(b) AMOUNT OF PER BENEFICIARY PREMIUM.—Paragraph (2) of section 9704(b) of the Internal Revenue Code of 1986 (defining per beneficiary premium) is amended—

(1) by striking subparagraph (A) and inserting:

“(A) \$2,116.67, plus”, and

(2) by striking “the amount determined under subparagraph (A)” in subparagraph (B) and inserting “\$2,116.67.”

(c) CONFORMING AMENDMENT.—Clause (ii) of section 9703(b)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting “(without regard to any reduction under section 9704(e)(3)(B)(ii))” after “for the plan year”.

SEC. 2. DISCLOSURE REQUIREMENTS.

(a) IN GENERAL.—Section 9704(h) of the Internal Revenue Code of 1986 (relating to information) is amended by adding at the end the following new paragraph:

“(2) INFORMATION TO CONTRIBUTORS.—

“(A) IN GENERAL.—The trustees of the Combined Fund shall, within 30 days of a written request, make available to any person required to make contributions to the Combined Fund or their agent—

“(i) all documents which reflect its financial and operational status, including documents under which it is operated, and

“(ii) all documents prepared at the request of the trustees or staff of the Combined Fund which form the basis for any of its actions or reports, including the eligibility of participants in predecessor plans.

“(B) FEES.—The trustees may charge reasonable fees (not in excess of actual expenses) for providing documents under this paragraph.”

(b) CONFORMING AMENDMENT.—Section 9704(h) of the Internal Revenue Code of 1986 is amended by striking “(h) INFORMATION.—The” and inserting:

“(h) INFORMATION.—

“(i) INFORMATION TO SECRETARY.—The”.

By Mr. ASHCROFT (for himself and Mr. BROWN):

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time U.S. Senators and Representatives may serve; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT
JOINT RESOLUTION

Mr. ASHCROFT. Mr. President, I rise in morning business to submit for passage a joint resolution that relates to Congressional term limits and the potential of States to have term limits and the right of the States to be involved in creating term limits for Members of the U.S. Congress.

On November 29 of last year, the Clinton administration argued before the Supreme Court of the United States that States should not have the right to limit congressional terms. Thus, the executive branch has spoken, and spoken against the right of the states and of the people to limit the number of terms individuals may serve in the U.S. Congress.

Earlier this week, on Tuesday, in a 5-4 decision entitled *The State of Arkansas versus Hill*, the United States Supreme Court ruled that States do not have the authority to limit the number of terms congressional representatives may serve. The judicial branch has spoken.

Both the executive branch, through the Clinton administration, and the judicial branch, have spoken against the right of States and of the people to limit the terms of individuals who represent States and districts in the U.S. Congress.

There is only one hope for the overwhelming number of people in this country who endorse term limits. If Congress extends them the opportunity to amend the United States Constitution in a way that would allow individual States to limit the terms Members of Congress may serve, then the people will have spoken.

There has been much debate about term limits in this Congress. Earlier in the year, the House of Representatives fell well short of the two-thirds majority required to forward to the people a constitutional amendment on term limits. Of the 290-vote margin required for a constitutional amendment, they only had 227 votes. What would normally be a significant majority vote in the House, was clearly not enough to make sure that States would have the opportunity to vote on a constitutional amendment permitting term limits.

Last January, I introduced a constitutional amendment that would have limited Members of Congress to three terms in the House and two terms in the Senate. Today, as a result of its defeat and of the administration's refusal to recognize the will of

the people, I am introducing a different kind of constitutional amendment. An amendment that would simply give States the explicit right to limit congressional terms. It would not mandate that any State limit the nature or extent of the terms of the individuals who represent it in the Congress, but would give the States, if they chose to do so, the right to limit the Members' terms who represent that State.

In the Arkansas case, which was announced earlier this week, Justice Clarence Thomas wrote, "Where the Constitution is silent it raises no bar to action by the States or the people."

I believe that he is correct. Where the Constitution does not speak, the people and their States should have a right. Unfortunately, a majority of Supreme Court Justices did not agree with Justice Thomas. In order to supply them with what they appear to require, I believe we should allow the Constitution a way to shout out "freedom." This is a freedom the American people want and a freedom the American people understand is necessary.

More than 3 out of 4 people in the United States endorse the concept of term limits. They have watched individuals come to Washington and spend time here, captivated by the Beltway logic, the spending habits and the power that exists in this city. The people of America know that the talent pool in America is substantial and there are many who ought to have the opportunity of serving in the U.S. Congress. Furthermore, they know that term limits would make sure that individuals who go to Washington return someday to live under the very laws that they enact.

I believe the people in the various States of this Republic should have the opportunity to limit the terms of those who serve them in the U.S. Congress. In light of the fact that the administration has argued against term limits, the executive branch is not going to support term limits, and because the judicial branch has ruled conclusively now in the United States Supreme Court that the States have no constitutional authority, it is up to those of us who serve in the U.S. Congress to do something to extend to the people their right to speak.

This is the house of the people. This Congress is the place where the voice of the people can, and should, be heard. Let us provide another avenue where the voice of the people regarding this important matter can be heard.

It is my pleasure to announce that today I am proposing a joint resolution to be enacted or passed by a two-thirds vote of each Chamber of Congress, which merely reads:

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to

the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution 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."

Obviously section 3 is simply the ratification clause.

It is a simple amendment to accord to the people of the United States of America a profound right—the right to make sure that the individuals who represent them in this body and in the House of Representatives are people who stay in touch with their needs and concerns, the aspirations, the hopes and the wishes of those who sent them here. The right to limit the terms of Members of the U.S. Senate and the right to limit the terms of those individuals who represent districts in our States in the U.S. House of Representatives.

Because that right has been rejected—argued against by the executive branch, the Clinton administration, and ruled against by the U.S. Supreme Court—we, the Members of the U.S. Congress, are forced to accord that right to the people. We must at least give them the opportunity to vote on that right by sending to them this joint resolution on the right of States and individuals to limit Members' terms who serve the States and the districts of those States in the U.S. Congress.

It is a profoundly important expression of our confidence in the people of this country to extend to them the right to be involved in making this judgment. I submit this joint resolution today in the hopes that democracy will continue to flourish as people have greater opportunities to be involved.

ADDITIONAL COSPONSORS

S. 768

At the request of Mr. GORTON, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes.

S. 853

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BAUCUS] was withdrawn as a cosponsor of S. 853, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. THOMPSON, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

LIEBERMAN AMENDMENT NO. 1200

Mr. LIEBERMAN proposed an amendment to amendment No. 1199 proposed by Mr. DOLE to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes; as follows:

Insert at the appropriate place the following new section:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting "or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331) for offenses described in section 2516 of this title." after "organized crime".

(b) Section 2331 of title 18, United States Code, is amended by inserting the following words after subsection (4)—

"(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping."

(c) Section 2518(7) of title 18 is amended by adding after "Notwithstanding any other provision of this chapter," "but subject to section 2516,".

THE HANFORD LAND MANAGEMENT ACT

JOHNSTON (AND MURKOWSKI) AMENDMENT NO. 1201

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. JOHNSTON (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill (S. 871) to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes; as follows:

After section 7, add the following:

"SEC. 8. COMPLIANCE WITH CERCLA, RCRA, NEPA, AND OTHER LAWS.

"(a) POLICY.—This Act shall govern all land management and environmental management activities at the Hanford Reservation and shall preempt any provision of federal, state, or local law or regulation, or any agreement entered into by the Department of Energy that is inconsistent with this Act.

"(b) PREEMPTION.—No environmental management activity conducted by the Secretary or the employees or contractors of the Secretary at the Hanford Reservation shall be subject to—

"(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601-9675);

"(2) the Solid Waste Disposal Act (42 U.S.C. 6901 to 6992k, also known as the Resource Conservation and Recovery Act);

"(3) any state or local law or regulation relating to environmental management activities; or